THE

ANCIENT DIALOGUE

CONCERNING THE

EXCHEQUER,

Publiſhed from two Manuſcript Volumes,

CALLED THE

BLACK BOOK and RED BOOK.

Remaining of RECORD in HIS MAJESTY'S EXCHEQUER. Which contain an Authentic Account of the greateſt Officers of the Realm, by whom the various Branches of the Royal Revenue are managed; their Duties, Saleries, Privileges and Exemptions.

ALSO

A circumſtantial Detail of the SHERIFF'S ACCOMPTS; the Manner and Method of paſſing them at the Exchequer; the Privileges and Exemptions allowed them, by Reaſon of their Buſineſs and Attendance there; the Origin and Derivation of their Name and Office, with many other inſtructive and curious Particulars.

LIKEWISE

A Diſſertation concerning the AUTHOR of this Dialogue, and a Diſcourſe concerning the moſt ancient GREAT ROLL of the EXCHEQUER, commonly ſtyled The Roll of QUINTO REGIS STEPHANI.

Publiſhed originally in LATIN, by THO. MADOX, Eſq; Hiſtoriographer.

Now carefully tranſlated into ENGLISH,

By a GENTLEMAN of the INNER TEMPLE.

LONDON;

Printed for J. WORRALL, at the *Dove* in *Bell-Yard*, near *Lincoln's-Inn*. MDCCLVIII.

W. Musgrave.

MVSEVM
BRITAN
NICVM

To the Right Honourable

HENRY Earl of LINCOLN,

Knight of the moſt noble Order of the Garter,

AND

Auditor of the Receipt of His Majeſty's

EXCHEQUER.

My LORD,

THIS dialogue was originally inſcribed to the Throne; and afterwards, in the reign of Her late Majeſty Queen Anne, to the then Auditor of the Exchequer. As this impor-

tant

tant office is now held by Your Lordſhip, I eſteem it one of the happieſt occurrences of my life, to have, by Your Lordſhip's gracious indulgence, this opportunity of ſheltering a tranſlation of it, under Your Lordſhip's patronage, and of ſubſcribing myſelf,

My Lord,

Your Lordſhip's,

moſt obedient,

and

very humble Servant,

The TRANSLATOR.

AN

EPISTOLARY DISSERTATION

TO THE

Right Honourable and Moſt Noble Baron,

CHARLES Lord *HALIFAX*,

A PEER of GREAT BRITAIN,

THOMAS MADOX ſends greeting.

* THE following tract or dialogue, moſt noble lord, was formerly in the higheſt reputation and eſteem among the hiſtorians and antiquaries of our nation, even while obſcure in manuſcript volumes; being of opinion, that it had great connection

* *Cambden, Selden, Spelman, Coke, Dugdale, Prynne, and many more authors of the beſt authority, quote this dialogue, whenever they treat of the exchequer.*

with the ſubject matter of the hiſtory of the exchequer, * which I have compiled in the preceding ſheets; I therefore thought proper to inſert it in this volume. It now appears under your protection, having never, as yet, been wholly and entirely publiſhed. I ſay under your protection; for when I intended to publiſh an exact copy of the dialogue, according to the manuſcript volume, which is called, "the black book of receipt," I had the honour of acquainting your lordſhip with my deſign, you was pleaſed to aſſiſt me as much as lay in your power, not only with the manuſcript volume, but alſo many other ancient authentic rolls, that were in the treaſury of the Queen's exchequer, which are locked up with three keys; one of which you had, being auditor (as you are called) of the receipt. Many manuſcript copies of the dialogue, wrote in a modern character, are to be ſeen in public, as well as private libraries; I have had the honour of borrowing two, which indeed are more legible and correct than any I have met with, they are in the inſtructive library of the moſt learned baron, John lord Somers. I ordered theſe two copies to be tranſcribed, having recourſe to the entire dialogue; then I myſelf compared that manuſcript moſt carefully with the black book and red book manuſcripts above mentioned, kept in the royal exchequer; as I ſhall, by and by, more fully explain. And becauſe the copy cannot be ſaid to be examined, unleſs done by two, the one reading, the other inſpecting the book; I deſired, and obtained the aid and labour of George Holmes, a man of indefatigable induſtry, and my very good friend, together with the authority of both thoſe manuſcripts, in the examination of this tranſcript, (which Mr. Holmes was deputy to that moſt famous man, Richard Topham, his Majeſty's keeper of the ſacred records, repoſited in the tower of London, who was alſo my friend); therefore this edition may be juſtly eſteemed a true and correct one. And now I approach You, moſt noble lord, that I may offer you in print, the tract you have helped me to, contained in the black book. And offer it with as many obſervations as poſſible inaſmuch as your dignity and virtue demand them. But I have other reaſons, for being deſirous of having this edition adorned with your name. You have been the ſhining patron of the learned through-

* *This dialogue is added at the end of Madox's hiſtory of the exchequer.*

out

out Britain ; even as you yourſelf excelled in literature and genius, ſo likewiſe you encouraged learning in it's decline, that you might thereby obtain a real reputation, that would deſcend to the lateſt poſterity: but I in an eſpecial manner celebrate you by this name, becauſe you have promoted the explanatory part of grammar, and antiquarian knowledge. My lord Somers, and yourſelf, who were held in eſteem and authority, by lord William and lady Mary late King and Queen of England, of happy memory, for being authors by the royal command of that illuſtrious undertaking of collecting and publiſhing the treaties, leagues and publick acts, (as many as could any where be found in the archives) that have happened between the Kings of England, and foreign Kings and ſtates, for ſome ages laſt paſt ; which work ſtill in ſome meaſure goes on by favour of her ſerene majeſty Queen Anne. Beſides, it is but juſt and reaſonable that our antiquaries of Britain ſhould give the utmoſt thanks, to the very noble peers and reverend prelates of the ſelect aſſembly, choſe (upon your making the propoſal openly in their preſence) from the houſe of lords ſitting in parliament to take a view of all the repoſitories of records (*a*) in London. But you, moſt learned lord, are more eſpecially intitled to the higheſt encomiums, becauſe you, with the reſt of the choſen lords, have finiſhed that performance ſo diligently and carefully ; becauſe you yourſelves went in perſon to the repoſitories of records ; clearly diſcovered the condition of them ; made a proviſion in order to preſerve them ſafe from devouring time, and other dangerous accidents, as alſo methodized and rendered them fit for publick uſe, by adding tables, where they were wanting ; upon the whole, becauſe you procured large ſums of money from the royal treaſury (which from the innate bounty of the beſt of Queens were immediately granted) to repair and fit up the rooms and chambers, in which the records are kept. This work, as it is in it's own nature deſerving of the greateſt praiſe, ſo neither can it be but moſt agreeable and acceptable to all thoſe, who value the venerable monuments of antiquity.

I was once indulged with the honour of attending you and the choſen lords, when you went to ſee the royal archive in the Tower of

(*a*) The Law term of our courts of Juſtice.

London; at which time there were preſent the right honourable the lords Thomas earl of Stamford, Ralph baron Grey of Werk, John baron Paulet, of Hinton, St. George, now earl Paulet, John baron Somers, Charles baron Halifax, (your lordſhip I mean) the right reverend John biſhop of Chicheſter, and William biſhop of Carliſle: and alſo at another time, when you took a view of the Chapter-Houſe at Weſtminſter, another repoſitory of royal records; at which day there were preſent the right honourable the lords Thomas Earl of Stamford, Charles earl of Sunderland, John earl of Angleſey, Lawrance earl of Rocheſter, Charles viſcount Townſhend, John baron Poulet, now earl Poulet, John baron Somers, and yourſelf, moſt noble lord, and the right reverend William biſhop of Carliſle, (*a*) together with ſir Chriſtopher Wren, knight, her Majeſty's architect: and again, another time, when you paid the repoſitories of the Tower of London a ſecond viſit; then there were preſent, the right honourable the lords Thomas earl of Stamford, John baron of Somers, and yourſelf, and the right reverend Gilbert biſhop of Saliſbury. But give me leave, if you pleaſe, here to confeſs, how I was tranſported with the greateſt pleaſure in ſeeing, and taking notice, with what care all the choſen lords acted, that the royal records might be kept whole, ſafe and ſound: nor can I here help mentioning another moſt laudable propoſal (of which you was either the author or encourager) of providing a beautiful and magnificent library for the laying up the manuſcript volumes of the Cottonian library at Weſtminſter (a treaſury worth any ſum): which propoſal, it is hoped, ſome time or other will be compleatly executed by the favour and bounty of the moſt pious Queen Anne. *

In the next place I muſt ſay ſomething, illuſtrious lord, concerning the tract or dialogue, which I here put into your hands: two ancient manuſcript copies of it remain at this day, one called the black book in the receipt of the King's exchequer, in the cuſtody of the treaſurer and chamberlains; the other the red book, kept by the Queen's remembrancer, in the barons exchequer; both wrote in an ancient hand. The copy of the black book is in a ſmall cloſe character; and it was wrote, as I gueſs, about the time of Edward the firſt, King of England. The tranſcriber, whoever he was, has ſometimes left vacant ſpaces in

(*a*) I have neither deſignedly or knowingly omitted any lord who was then in the Chapter-Houſe; if any one happens to be omitted, I beſeech him to be kind enough to forgive me, and to impute it to forgetfulneſs: but there are many other lords, and as far as I know prelates, who were appointed and choſen: but being hindred by other buſineſs, were abſent.

* *See ſtat.* 26 *Geo.* 2. *Ch.* 22. *which provides a general repoſitory for the Cottonian library.*

the

the text; that is, when he could not perfectly read the copy: and thoſe vacant ſpaces (ſometimes three or four lines) are filled up by ſomebody's elſe pen, and in a different hand-writing from the reſt of the text; but like that which was commonly uſed in King Edward the firſt's time, as we conjectured upon a careful inſpection, when we examined it: the text of this copy is entire; but it has no titles or heads. Were they ought to have been, vacant ſpaces are left, as may be ſuppoſed by the breakings off of the lines of many of them from the chapters; which ſpaces the tranſcriber never filled up: but I find no mark in the black book, from which it appears, who compoſed the dialogue, or who wrote that copy.

The other copy, the red book, is wrote in a very ſmall and cloſe hand; and it might be wrote (I gueſs ſo) about the former part of King Henry the third's reign, or perhaps in the reign of King John. It has no general title, nor author's name prefixed to it; for it thus begins at folio 31 a. *We muſt ſubmit to, as well as obey, in all fear, powers ordained by God, &c.* and on the back of the ſame folio it begins thus: *As I was ſetting at the window of a tower, near the river Thames, in the twenty-third year of the reign of King Henry the ſecond, &c.* Then follows the dialogue wrote column-wiſe. That red book formerly belonged to Alexander, archdeacon of Shropſhire, which he atteſts himſelf in eloquent terms, in a character or writing, the tenor of which I have inſerted in the margin, concerning a certain agreement made before the King and many of the Magnates, between the biſhop of Hereford, and the citizens of that town. (*a*) This agreement follows immediately

(*a*) In the year of our Lord 1227, the eleventh of the reign of King Henry ſon of King John, his Majeſty on the eve of St. Margaret, was at the chapel of St. John at Weſtminſter with ſome of his Magnates. And H. Foliot biſhop of Hereford came thither, who had excommunicated forty citizens of Hereford by name, becauſe they had rated his people co-citizens, inhabitants of the city, and men of canonical function, for the King's common tallage in the city, and had diſtrained for the ſame. He likewiſe laid the whole city under an interdict. This therefore being repreſented to the King, he ſettled the affair in the chapel the ſame day, after this manner: that is to ſay, that the biſhop ſhould abſolve all who were excommunicated in the church form, and releaſe them from the interdict, upon their reſtoring the diſtreſs to the biſhop's people, and thoſe of canonical function; and the archbiſhops and biſhops ſhould determine the purchaſe and ſatisfaction (according to the eccleſiaſtical laws). King Henry himſelf, and Hugh de Burgo chief juſtice, Euſtach biſhop of London, Richard biſhop of Saliſbury, Ralph biſhop of Chicheſter, the King's chancellor, Jocelin biſhop of Bath, Walter biſhop of Carliſle, were preſent, and agreed to it, as alſo Thomas de Muleton, Robert de Leſſinton, Thomas de Haidon, Henry de Braibroc the King's juſtices; with Ralph ſon of Nicholas, Geoffrey de Crancumbe, Nicholas de Molis, Theobald Hautin, Raymond de Burgh, William ſon of Garen, Philip de Obeigny, Henry ſon of Achery, Henry de Cappel, barons, and other officers; Ralph of Norwich, the Jews Juſtice, Ranulph Briton one of the council and juſtices; maſter Henry of Biſhopſbury, Henry de Cornhull chancellor of London, clerks, and Alexander archdeacon of Shropſhire, then one of the King's chaplains, who was preſent, and wrote it; whoſe book this was. Red book, excheq. marked fol. 46. b. col. 2.

after the tract in the red book, whoſe author we are inquiring after, wrote even in the ſame page, or on the back of the folio, on which the tract ends, and in the character coeval with that (if I am not miſtaken) in which the tract is wrote: Alexander himſelf wrote this agreement: he declares, that *he was preſent, and did write it.*

That Alexander, archdeacon of Shropſhire, was Alexander de Swereford, a moſt excellent man of bleſſed memory, and who at this day is held in great eſteem among the antiquaries; firſt a clerk, then a baron of the exchequer. He was called de Swereford from a village or pariſh of that name in the county of Oxford; of which pariſh he was firſt vicar, then rector (called parſon) being preſented thereto by the abbot and convent of Oſney. (*a*) He was the biſhop of Coventry's chaplain in the ſeventeenth year of King John, and went by the King's leave beyond ſea to meet his biſhop: the archdeacon met him at Shropſhire, and was witneſs to a deed of Robert de Watford, dean and chapter of London, on the fifth day of the month of December, in the third year of the reign of King Henry the third. (*b*) King Henry the third granted him, then archdeacon of Shropſhire, and one of the King's chaplains, twenty marks yearly for his ſupport. (*c*) He ſat as baron in the King's exchequer the ſixth day of July, in the eighteenth year of Henry the third. (*d*) He is mentioned as treaſurer of ſaint Paules London, the fifteenth day of January in the year one thouſand two hundred thirty one-two. (*e*) He alſo witneſſed a deed, as treaſurer of ſaint Paules London, in the year of our Lord one thouſand two hundred forty one, whereby Adam Scot gave an annual rent of twelve ſhillings to ſaint Paules church. (*f*) He died on the fourteenth

(*a*) Cott. lib. Vitell. E. 15. fol. 204. col. 1.
(*b*) Ib. Tiber. c. 5. fol. 156.
(*c*) Pat. 12. H. 3.
(*d*) Cl. 18. H. 3. on the back, m. 16.
(*e*) Pat. 16. H. 3. m. 9.
(*f*) Witneſſes, Peter archdeacon of London, Henry chancellor, Alexander treaſurer, Roger chanter of the choir, William of ſaint Mary's church, Geoffrey of Wexham, Richard de Wendover, Richard Foliot, Richard de Sanford, Hugh of ſaint Edmund, and William de Welleburn, canons of ſaint Paules; Ralph Eſwi then mayor of London, Robert ſon of John alderman, Simon ſon of Mary, then ſheriff of Middleſex—executed at London 1241—from the box P. in the archive of the dean and chapter of London.

day

day of the month of November, in the year one thouſand two hundred forty-ſix. (*a*) He was buried in ſaint Paules church, at ſaint Cedda's altar; where he founded a choir. The reverend and learned *Matthew Hutton, one of my beſt friends, lately communicated to me theſe memorandums concerning the illuſtrious archdeacon of Shropſhire; and there are many more, as I remember, of this ſort, concerning the life and morals of archdeacon Alexander, which cannot be here taken notice of. To proceed:

Though Alexander did perhaps either collect, or cauſe that copy of the dialogue, which is to be met with in the red book, to be tranſcribed into it; yet it is very likely, that the dialogue itſelf was compoſed before Alexander's time; that is to ſay, before King Henry the third's reign, or even King John's. This copy without doubt was wrote from ſome other copy or book; for he extracted it, and has ſometimes left ſmall blanks for words, which he either could not read or thoroughly underſtand; and at other times he has miſtaken words, from the reſemblance they bore to each other, occaſioned by the manner of writing and abbreviating them in thoſe days, as Dr. George Holmes and myſelf conjectured, upon inſpecting the red book. Beſides, Alexander who had ſerved the King in his exchequer ever ſince William of Ely's Days (I mean William of Ely, who, in the beginning of King John's reign, was the King's treaſurer) was diligent and indefatigable to collect whatever memorable matters he was able, in regard to the exchequer, the royal revenue, and tenures. With this deſign certainly he related many things concerning military ſervices, which he had gathered from the annual rolls (which are now called the great rolls of the pipe) in the red book (which he ſeems to have made uſe of as his ſtore-houſe of collections;) and he has taken care to preſerve this our dialogue of the exchequer entire, among other things, which he has compiled in that book. But I hinted above, moſt noble lord, that the dialogue was more ancient than archdeacon Alexander's time, and that ſeems likely from ſome intrinſical notes or remarks: for example; the author of the dialogue ſpeaks of the King's court, as it was uſual to

(*a*) Cott. lib. Vitell. E. 15. fol. 198.

* *His preſent Grace, the moſt Reverend the Archbiſhop of Canterbury.*

ſpeak

ſpeak of it before the courts of law were divided; (*a*) and many writs cited by him are in the royal ſtyle of the ſingular number: (*b*) whereas King Henry the ſecond, in the latter years of his reign, and all the Kings of England after him, wrote in the plural number, *we* and *our*, *&c.* He makes uſe of ſome phraſes and expreſſions himſelf, which breathe the air of the firſt antiquity. He calls a law, or ſtatute, *aſſiza* (*c*) (or an aſſize.) The itinerant juſtices, *errantes* (*d*) (or juſtices in eyre.) The aids of cities and boroughs paid to the King, *dona* (*e*) (or gifts.) The King's ſhip, in which he uſed to go beyond ſea, *eſnecca* (*f*) (or ſhip.) Add, if you pleaſe, what the author ſays of danegeld (*g*) ordeal, (*h*) the chattels of uſurers, (*i*) and the like. Indeed, it appears from the tract itſelf, to have been compoſed in the time of King Henry the ſecond; for it is inſcribed to that King: and he is often mentioned in it, as if then alive. (*k*) I ſhould imagine that the author lived in the former part of the juſt now mentioned King's reign, and ſome time after. He knew, or had ſeen, Robert earl of Leiceſter, who before diſcharged the office of chief juſtice, under Henry the ſecond, (*l*) and departed this life in the year of our Lord one thouſand one hundred ſixty-eight, [14 H. 2.] according to Hoveden. (*m*) He was acquainted with Henry [de Blois] biſhop of Wincheſter, (*n*) who is ſaid to have died in the year of our Lord one thouſand one hundred ſeventy-one. (*o*) He ſpeaks very much in the praiſe of Nigell biſhop of Ely, as one who knew him very well; (*p*) and he expreſly ſays, that he ſupplied Nigell's abſence in the exchequer, when he was treaſurer. (*q*) But he is ſtill thought to be Nigell's ſon. (*r*) Nigell the biſhop died in the year of our Lord one thouſand one hundred ſixty-nine, [15 H. 2] as is reported in the annals of Wincheſter, and in the hiſtory of Ely. (*s*) It is certain, that he died about the fifteenth year of

(*a*) B. 1. chap. 6.
(*b*) B. 1. chap. 6. the treaſurer, &c.
(*c*) B. 2. chap. 10. ſo ſay I, but, &c.
(*d*) B. 2. chap. 10. it ſometimes happens.
(*e*) B. 2. chap. 13. what common aſſize is.
(*f*) B. 1. chap. 6. it is ſufficient to anſwer you this queſtion, as, &c.
(*g*) B. 1. chap. 8. ſo it is, but let us proceed. B. 1. chap. 11. what danegeld is. B. 2. chap. 12. we call the pecuniary puniſhments.
(*h*) B. 2. chap. 7. but obſerve.
(*i*) B. 2. chap. 10. ſo ſay I, but, &c.
(*k*) B. 1. chap. 11. our iſland content with its own commodities, &c. B. 2. chap. 2. tho' this does not belong, &c. B 2. laſt chapter.
(*l*) B. 1. chap. 11. our iſland content with its own commodities, &c.
(*m*) 22 P. 2. p. 512. n. 50.
(*n*) Thus had I, the reaſon of this cuſtom from Henry, formerly biſhop of Wincheſter. B. 1. of dial. chap. 15.
(*o*) Annal. eccleſ. Wint. ap. Ang. Sacr. t. 1. p. 301.
(*p*) Dial. 1. B. chap. 8. does it aſtoniſh you? nor, &c.
(*q*) B. 1. chap. 11. our iſland content with its own. &c.
(*r*) Ang. Sacr. t. 1. p. 304.
(*s*) Annal. eccleſ. Wint. ap Ang. Sacr. t. 1. p. 301. Hiſt. Ely, ib. p. 626.

King

King Henry the ſecond. (*a*) Upon the whole, that tract ſeems either partly wrote, or perhaps finiſhed, ſoon after the twenty-fourth year of King Henry the ſecond. The author declares he began to write it in the twenty-third year of that King, (*b*) and he ſpeaks of the King's writ iſſuing in Michaelmas-term, of the twenty-fourth year, (*c*) as of a matter then lately tranſacted. And another clauſe of the dialogue relates to almoſt the ſame period of time. " By Richard (ſays the author) arch-" deacon of Poictiers, now biſhop of Wincheſter." (*d*) But that archdeacon Richard, is ſaid to be choſe biſhop of Wincheſter in the month of May, in the year of our Lord one thouſand one hundred ſeventy-three, (about the nineteenth or twentieth year of King Henry the ſecond;) and he died in the year of our Lord, one thouſand one hundred eighty-eight, (that is, the laſt year of King Henry the ſecond. (*e*)

Now, if your lordſhip pleaſes, we are to enquire, whether Gervaſe of Tilbury, or any other perſon, was the author of that tract. It was aſcribed to Gervaſe a great many years ago, by the general opinion of the antiquaries; but why I cannot divine. That matter is to me ſo obſcure, that if I was aſked, who Gervaſe of Tilbury was, I ſhould willingly confeſs that I could find nothing concerning him among the ancient membranes. He is reported to have derived his birth, on his mother's ſide, from Henry the ſecond, King of England, by the modern writers: that he was verſed in letters, and that he wrote many pieces, particularly, a conciſe hiſtory of the Kings of England and France, which he inſcribed to Otho the fourth, Emperor of Germany, the ſon of Henry duke of Saxony and Maud, daughter of Henry the ſecond, King of England. (*f*) That ſhort hiſtory was publiſhed by Ducheſne among

(*a*) Nigel biſhop of Ely accompts for fifty marks on his promiſe to marry the King's daughter, thirty marks in the treaſury, and he owes twenty marks; but he is dead, and may he reſt in peace. Great roll, 15 H. 2. roll 10. b. Camb. and Hunt.

(*b*) As I was ſetting at the window of a tower near the river Thames, in the twenty-third year of the reign of King Henry the ſecond, &c. introduc. to dial.

(*c*) B. 1. chap. 8. does it ſurprize you? nor, &c.

(*d*) B. 2. chap. 2. when as you ſay, &c.

(*e*) Angl. Sacr. tit. 1. p. 301.

(*f*) Gervaſe of Tilbury, nephew of Henry the ſecond, King of England. — He dedicated to poſterity what he had learnt, impartially, in the publication of little tracts; particularly to Otho the fourth, emperor, King John's nephew, on his mother's ſide, his glorious maſter. In what power and favour he was with him, appears from his appointing him marſhal of the dominion of Arles. The reaſon of his departure was, becauſe Otho married a relation on his mother's ſide by Maud, an Engliſh woman, Henry King of England's daughter: he flouriſhed in the 1210 year of the Meſſiah's incarnation, under King John. Bal. writ. Brit. centur. 3. p. 250. Hence, from the ſame King Henry, 'ſprang the dutcheſs of Saxony, whoſe bloſſom you being, moſt ſerene prince, produced the ſweeteſt fruit, from the beſt of trees. Gerv. of Tillb. frag. to Otho W. Emp. publiſhed by Ducheſne, a French hiſtoriographer. t. 3. p. 373. a. b.

the French writers. It is intitled as mentioned below in the margin, (*a*) and contains a ſhort and conciſe account of ſome of the exploits of the Kings of England and France. Gervaſe is ſaid to have been in great favour with the Emperor Otho, (*b*) and appointed by him marſhal of the kingdom of Arles. (*c*) He flouriſhed (ſays Balæus in the paſſage above cited) in the time of King John; and indeed Otho flouriſhed about that time, that is to ſay, in the reigns of King Richard the firſt, and King John, as will appear from the memorandums which I ſhall by and by quote. Relying on your lordſhip's favour and patience, laying aſide my argument, I will here relate ſome particulars of Otho, Gervaſe's patron. We moſt recollect, that Otho (who was in ſuch eſteem in his time, as to be choſe Emperor of Germany, or being choſe renounced it) deſcended from the royal family of England. Lady Maud was his mother, eldeſt daughter of Henry the ſecond King of England, a moſt potent and magnificent prince, (*d*) Henry duke of Saxony, his father: Henry, Otho, and William, ſurnamed the Anglo-ſaxon, were the male iſſue of that marriage. The dukes of Brunſwick and Lunenburgh deſcended from William the Anglo-ſaxon, and thus was laid the foundation of the ancient conſanguinity between the royal family of England and the illuſtrious families of Brunſwick and Hanover; which was happily renewed and confirmed latterly in the perſon of lady Elizabeth, mother of the ſerene princeſs Sophia, electreſs dowager of Hanover. Therefore I thought it juſt and reaſonable to preſerve from utter oblivion, and even to hand down to the lateſt poſterity, as far as lay in my power, ſome of thoſe remarkable particulars that are to be met with in the ancient membranes, concerning that illuſtrious family, which the Engliſh nation holds, as it ought to do, in the higheſt eſteem and veneration.

(*a*) A fragment concerning the Kings of England and France, out of a book of the wonders of the world, which is otherwiſe called, the Emperor's ſolace, or imperial leiſure; the author Gervaſe of Tilbury, marſhal of the kingdom of Arles to Otho the fourth, Emperor. Ib. in Ducheſne, a French hiſtoriographer, t. 3. p. 373. a. b.

(*b*) Bal. as above.

(*c*) Ducheſne as above.

(*d*) King Henry the ſecond was in the higheſt eſteem, and accounted the moſt invincible (being always triumphant) of the Chriſtian princes of England in his time. Annal. of Aragon. t. 1. B. 2. fol. 77. a. in the year of our Lord 1170.

The

The annals of Waverley relate, that Otho was elected Emperor (*a*) in the year of our Lord one thouſand one hundred ninety-eight [the tenth of Richard the firſt] and crowned at Rome, by Pope Innocent the third, in the year of our Lord one thouſand two hundred nine. (*b*) There is frequent mention made in the ancient membranes of the Engliſh nation, as well of Otho, as William the Anglo-ſaxon; (for I at preſent omit ſpeaking any more of that moſt ſerene family:) for inſtance, William the Anglo-ſaxon lived here in England about the thirty-ſecond year of Henry the ſecond, under the care and guardianſhip of his grandſire, the juſt now mentioned King Henry the ſecond; (*c*) and afterwards, in the reign of King Richard the firſt, his uncle, under whoſe care he was placed. (*d*) Otho likewiſe about that time lived in England, and one Morbodo was his tutor. (*e*) King Richard the firſt gave Otho a palfrey, (*f*) and twenty marks to Jordan, one of his knights, in the third year of his reign. (*g*) The ſame King ordered ſome veſtiments to be bought and provided (in his fifth and ſixth year) for the uſe of King Otho, and his attendants, when they went from England into Germany. (*h*) The King, about the ſame time, gave Otho three woollen cloſe riding coats, and two cloth coats, dyed at

(*a*) Otho the younger ſon of Henry duke of Saxony, Richard King of England's nephew, was elected Emperor of Normandy 1198, the tenth year of King Richard. Annal. Waverl. p. 166.

(*b*) Otho ſon of the duke of Saxony, King John's nephew, the next ſunday after the feaſt of ſaint Michael, was crowned at Rome, by lord Pope Innocent the third, with the imperial diadem, 1209, and ſoon after aroſe a quarrel between the empire and the high-prieſt. Ib. that year.

(*c*) And eight pounds, eighteen ſhillings and eight-pence, by Rannulph de Glanvil's writ, for diſcharging the cloth of William the Anglo-ſaxon, ſon of the duke of Saxony, his nurſes, his laundreſs, and his maſters. Great roll, 32 H. 2. roll 4. a. London and Middleſex; and ſee Mad. hiſt exchеq. chap 10. ſect. 12. 1 year of R. 1. Henry of Cornhill, &c.

(*d*) And fifty-nine ſhillings and eight-pence by the King's writ, and by the view of William the tallyman, for the charges of William, ſon of the duke of Saxony, and of the daughter of the earl of Galfrid of Britain, from the feaſt of ſaint Hillary, to the ſeventh day after aſh-wedneſday. Great roll. 2 Rich. 1 roll 11. tit. city of Wincheſter.

(*e*) And ten pounds to Morbodo Otho's maſter, ſon of the duke of Saxony, by the chancellor's writ; to the ſame for his buſineſs in reſpect of the King. Great roll, 2 Rich. 1. roll 12. a. Kent.

(*f*) And forty ſhillings to Otho, ſon of the duke of Saxony, by the chancellor's writ, for the purchaſe of one pulfrey. Great roll, 3 Rich. 1. roll 9. b. Cambridgeſhire and Huntingdonſhire.

(*g*) And twenty marks, by the chancellor's writ, to Jordan, Otho's knight, the lord the King's nephew, the duke of Saxony's ſon. Great roll, 3 Rich. 1. roll 11. a. London and Midd.

(*h*) And eighteen pounds and eight-pence, by the King's writ, for robes bought for the King's uſe for Otho, the duke of Saxony's ſon, and his attendants, when they went into Germany. Great roll, 5 Rich. 1. roll 12. London and Midd.

Stamford. (*a*) The ſame King Richard the firſt, in his tenth year, ſent a great ſupply of money into Germany, to lord Otho, which coſt twenty marks carrying thither. (*b*) Afterwards, in King John's reign Otho is often to be met with, mentioned by the name of King, Otho, King and Emperor of the Romans, or Germany. King John in his firſt year, ſent to him in Germany, a vaſt ſum of money, by ſome earls and others; (*c*) and ordered forty-five pounds to be paid to Conſtantine of Colonia in diſcharge of a debt of Otho's, King of the Romans. (*d*) One of King Otho's chamberlains was in England in the fourth year of King John; alſo one Gerrard of Rhodes, and Ralph of Ardenna, ſent from England to King Otho; and alſo two meſſengers, and two trumpeters, ſent from King Otho, to his uncle King John in England. (*e*) King John, the year following, made King Otho a preſent of a palfrey. (*f*) Lambert King Otho's ſteward, was ſent into England the eighth year of King John; (*g*) and alſo Conrad, King

(*a*) And fifty ſhillings, by the King's writ, to Otho, the duke of the Saxon's ſon, for three woollen cloſe riding-coats, and two robes, dyed at Stamford, Great roll, 6 R. 1. roll 15. b. Surry.

(*b*) And twenty marks to Robert de Wanc and Richard de Heriet, for the carriage of the King's treaſure to lord Otho in Germany, and for finding other neceſſaries. Great roll, 10 Rich. 1. roll 14. a. Kent.

(*c*) Reynald de Cornhill accompts for four hundred and twelve pounds, ſeven ſhillings and ſix-pence half-penny, and for one hundred ſixty five pounds, thirteen ſhillings and four-pence by tale of the ferme of Kent——and ſeven pounds, and half a mark, by the King's writ, for the charge of the paſſage with the treaſure which the King ſent to Otho, King of the Romans, by earls and others, who thereupon went over ſea. Great roll, 1 Joh. roll 5. a. Kent.

(*d*) And forty-five pounds to Conſtantine of Colonia, in diſcharge of the debt of Otho, King of the Romans, which the King paid. Great roll, 1 J. roll 9. b. Lond. and Midd.

(*e*) And ſeventeen marks by the writ of Galfrid, Peter's ſon, for the paſſage of King Otho's chamberlain, and his attendants, to Germany; and five marks by the ſame writ, for the paſſage of Gerrard of Rhodes, and Ralph of Ardenna, to King Otho. And four marks to Roger the engeneer, for his trouble as engeneer, by the ſame writ, and ten pounds and three marks and one palfrey, the King's gift, by Galfrid Peter's ſon's writ to King Otho's meſſengers going to the King.—— And forty ſhillings, by the ſame writ, for the paſſage of two of the King's trumpeters, and two of his meſſengers to Germany. Great roll. 4 J. roll 15. b. Kent.

(*f*) And four pounds to Normannus his chamberlain, who was going into Normandy, to buy a palfrey for King Otho's uſe, by G.'s writ, ſon of Peter. Great roll, 5 J. roll 1. a. London and Midd.

(*g*) And twenty-two ſhillings by the writ of Galfrid ſon of Peter, for the paſſage of Lambert, King Otho's ſteward, and his attendants. Great roll, 8 J. roll 5. a. Kent.

Otho's

Otho's ſteward. (*a*) Some of King Otho's meſſengers, (*b*) and alſo John his chamberlain, and Lambert of Colonia, (the managers as it ſeems of his affairs) tarried in England, in the ninth year of King John. (*c*) The King of Germany had ſome of his meſſengers tarrying in England, in the tenth year of King John. (*d*) Thirty-ſix pounds and one mark, were paid to Conrad the ſteward of [Otho] the Emperor, by the order of Galfrid, Peter's ſon, in the eleventh year of King John, to redeem his valuable furniture, and other things in pawn at Colonia. (*e*) A thouſand marks were paid by the King's command to Conrad of Wilre, the Emperor [Otho's] meſſenger in England, in the thirteenth year of King John. (*f*) The King preſented the duke of Saxony with four gilt goblets, and the duke's meſſenger with one (*g*) the ſame year. Henry ſon of the duke of [Saxony] returned from England into Germany, in the fourteenth year of the ſame King. At which time alſo ſome of the Emperor Otho's meſſengers ſtayed in England. (*h*) In ſhort, Otho is ſaid to have died in Saxony in the year of

(*a*) And thirteen pounds and ten ſhillings to Conrad, King Otho's ſteward, for their expence, by the ſame writ (that is, of Galfrid Peter's ſon.) Great roll, 8 J. roll 6. a. London and Midd.

(*b*) And five marks by Galfrid Peter's ſon's writ, to King Otho's meſſengers. Great roll, 9 J. roll 4. a. Kent.

(*c*) Robert of the iſland accompts for ten pounds, two ſhillings and five-pence, as is above contained, nothing in the treaſury, and ten pounds, two ſhillings and five-pence by Galfrid's writ Peter's ſon, to John the King of Germany's chamberlain, and Lambert de Colonia, and he is quit. Great roll, 9 J. roll 10. a. Cambridgeſhire and Huntingdonſhire.

(*d*) And twenty ſhillings, by the King's writ, for the paſſage of the archdeacon of Stafford, and of the King of Germany's meſſengers. Great roll, 10 J. roll 1. a. Kent.

(*e*) Galfrid Peter's ſon accompts for four hundred marks, which he received of Reynald of Cornhill — for which he is accountable, namely, forty marks to the abbot of Binnendon, and thirty-ſix pounds and one mark, to Conrad the emperor's ſteward, to redeem his jewels out of pawn at Colonia. Great roll, 11 J. roll 6. b. after Worceſterſhire.

(*f*) The brotherhood of the knights templars accompt for ten thouſand marks they received of the King's money, nothing in the treaſury, and one thouſand marks by the King's writ, to Conrad of Wilre, the Emperor's meſſenger, and they owe nine thouſand marks. Great roll, 13 J. roll 9. b. London and Middleſex, and great roll, 15 J. roll 11 b. London and Middleſex.

(*g*) John ſon of Hugh, farmer of Cockam and Bray, accompted at the exchequer, viz. twenty-five pounds by the ſame writ (the King's) for four gilt cups, made a preſent to the duke of Saxony, and one hundred ſhillings by the ſame writ, for one gilt cup given to one of the duke of Saxony's meſſengers. Great roll, 13 J. roll 22. a. Oxfordſhire.

(*h*) And twenty-five pounds, three ſhillings and four-pence, by the King's writ, for Henry the dukes ſon's expence, and for rigging and furniſhing his ſhip when he departed, and four pounds, ten ſhillings and eight-pence, by the ſame writ, to William de Cantilup, for the expence of the Emperor's meſſengers. Great roll, 14 J. roll 18. a. Norfolk and Suffolk.

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our Lord one thouſand two hundred eighteen. (*a*) I am perſwaded, illuſtrious ſir, that you will forgive this, tho' a very long digreſſion; eſpecially as it introduced a ſubject matter equally agreeable to us both. You reſpect the moſt ſerene family of Hanover, with a peculiar veneration, which you had an opportunity of teſtifying by your own mouth. When not long ago (*b*) you went to Hanover, at the command of the moſt potent Queen Anne, you received many marks of favour and friendſhip from that court.

I now return to the tract after which I was making inquiry. It is manifeſt indeed, that the author of it was very well verſed in the affairs of the revenue; as alſo that he attended and ſerved in the royal exchequer many years, and diſcharged an important office; on the contrary, it does not appear by any record or authentic writing, that I know of, that Gervaſe of Tilbury had any poſt in the King's exchequer, as baron, or as any other officer. There was indeed, at the beginning of King Henry the ſecond's reign, one Gervaſe, who it ſeems, was clerk or attendant in the receipt of the exchequer; becauſe he was called Gervaſe of the treaſury; (as it were, Gervaſe of the treaſury or receipt) that Gervaſe was exempt from danegeld, in the great roll of the ſecond year of King Henry the ſecond, in the county of Southampton; (they called it an acquittance from danegeld) by virtue of the King's letter. (*c*) Gervaſe of the treaſury, had a diſcharge in the county of Southampton, from a ſum impoſed on him, by the name of, aid of the county, in the great roll of the fourth year of the ſame King, by virtue of the King's writ of pardons. (*d*) Gervaſe of the treaſury obtained an acquittance from the common aſſize, or amerciament for murder, impoſed on the hundred of Netham, by the King's writ, in the fifteenth year of the ſame King. (*e*) But it does not appear, that the perſon here called

(*a*) Catal. honour, p. 342.

(*b*) In the year of our Lord 1706.

(*c*) Mad. hiſt. excheq. chap. 17. ſect. 1. tit. danegeld.

(*d*) And the ſame ſheriff (Thurſtin) accompts for one hundred marks of ſilver of the aid of the county, thirty five pounds, ſeven ſhillings and two-pence in the treaſury, and twenty-two pounds, twelve ſhillings and three-pence to the biſhop of Wincheſter in pardons, by the King's writs, and nine een ſhillings and two-pence to John the marſhal, and ten ſhillings and ſix-pence to William Maledoct. and two ſhillings and three-pence to Gervaſe of the treaſury, and eighteen-pence to the King's gaolers, &c. Great roll, 4 H. 2. roll 8. a. Hampſhire.

(*e*) And the ſame ſheriff accompts for ſixty-ſix ſhillings and two pence, of the hundred of Netham, for one murder, twenty-eight ſhillings in the treaſury, and two ſhillings and ten-pence to the abbot de Bello in pardons by the King's writs, and three ſhillings and four pence to William Malduit chamberlain, and eight-pence to Gervaſe of the treaſury, and he owes thirty-one ſhillings and four-pence. Great roll, 15 H. 2. roll. 11. a. Hampſhire.

Gervaſe

Gervaſe of the treaſury, was Gervaſe of Tilbury. It is much more probable it was ſome other perſon; for if Gervaſe of Tilbury derives his birth, on his mother's ſide, from King Henry the ſecond, this Gervaſe of the treaſury could not, by reaſon of his age, in my opinion, be the ſame perſon, as Gervaſe of Tilbury: for Gervaſe of the treaſury, was at leaſt at years of maturity in the ſecond year of King Henry the ſecond, ſo as to be clerk in the receipt; but King Henry the ſecond was himſelf, in the ſecond year of his reign, only twenty-three years old, or thereabouts.

Beſides, it may more reaſonably be inferred, that Gervaſe of Tilbury was a layman, ſince he was appointed marſhal of the kingdom of Arles. On the other ſide, it is to be proved from obſervations taken from the dialogue itſelf, with which it abounds, that the author of it was an eccleſiaſtical perſon. Perhaps ſome will object to this, by ſaying, that the office of marſhal was not always ſo much a lay one, but that clerks ſometimes diſcharged the duty of it, as was done in the exchequer court. He who there acted in the ſtead of the marſhal of England was ſometimes a clerk, and called the clerk of the marſhalſea.* In like manner the conſtable's office, which as well as the marſhal's, ſeemed to be lay, was often executed by clerks; for thoſe who acted in the exchequer, in the room of the conſtable of England, were for the moſt part clerks, ſo as to be called clerks of the conſtable. (*a*) Moreover, the archbiſhop of York was conſtable of the Tower of London, in the reign of King Henry the third, (*b*) and Anthony Beck, an eccleſiaſtical perſon, was conſtable of the Tower of London, for many years, in the reign of King Edward the firſt, as well before he was made biſhop of Durham, as after. (*c*) But however, the objection I have

* *Many inſtances of this are to be met with in Madox's hiſtory of the exchequer.*

(*a*) Mad. hiſt. excheq. chap. 24. ſect. 5.

(*b*) Deliver to W. archbiſhop of York, conſtable of the Tower of London. B. 57. H. 3. num. 1.

(*c*) Deliver fifty pounds to our beloved clerk, Anthony Beck, conſtable of the Tower of London, out of our treaſury. B. 3. E. 1. m. 3.

Anthony Beck had one hundred pounds a year for the cuſtody of the Tower of London. B. 8. E. 1. m. 5. B. 9. E. 1.

Deliver—to the reverend father A. biſhop of Durham, conſtable of our Tower of London. B. 11. E. 1. m. 1.

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ſtarted, or the arguments I have produced to ſuppott it, may avail; I am perſuaded they do not prevent my thinking, that the office of marſhal was properly a lay one. You muſt take notice, that the offices of marſhal, and conſtable of the exchequer, conſiſted chiefly of clerk-like buſineſs, which I apprehend may be preſumed in the office of conſtable of the Tower of London, as far as Anthony de Beck executed it; for it is not likely, that Anthony himſelf tranſacted the ſame buſineſs in his office of conſtable, which properly belonged to knights, ſergeants, and men at arms. (*a*) but rather ſuch as were ſuitable to the order of a clerk. Therefore, I now preſume, by your leave, to take it for granted, that the marſhalſea of Arles was properly a lay office. On the contrary, it is very evident, that the author of this tract was an eccleſiaſtical perſon: ſome proofs of it may be drawn from the dialogue itſelf. The author every where makes uſe of the ſtyle and manner of writing, as was commonly uſed by eccleſiaſtical perſons in thoſe days: he calls predial poſſeſſions (*temporalties*); (*b*) a word at that time, and even at this day, denoting the annual rents of the prelates. He writes as one more learned in texts of ſcripture than the generality of laymen of his age were; for he abounds in alluſions to phraſes of the ſacred ſcripture, as may be ſeen in the paſſages here cited below, (*c*) and in others. He converts the perſon with whom he has the diſcourſe concerning the exchequer, to ſpiritual and ſacramental thoughts. (*d*) But there is no need of more; the author himſelf openly acknowledges himſelf to be a perſon of eccleſiaſtical dignity. " In voluntary oblations, ſays " he, the ſame law is obſerved among all, whether the inſolvent be a " clerk or layman, and he forfeits what has been granted him, till " he makes ſatisfaction. The ſame alſo is obſerved in regard to all " other clerks, who are any ways indebted to the King, that is to ſay,

(*a*) They are likewiſe called knights, and in French chivalers, ſergeanz and genzd'-armes.

(*b*) B. 1. c. 5. ſo it may happen that any one, &c. p. 12. b.

(*c*) The proem, beginning " we muſt ſubmit, &c." 2. B. chap. 2. p. 38. Tho' this does not belong to my undertaking, &c. B. 2. chap. 18. You have heard often enough. B. 2. chap. 25. It alſo ſometimes happens, &c.

(*d*) B. 1. chap. 5. you know that what you ſay, &c. p. 12. b.

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" when they have omitted to alledge the privilege of their dignity, and " the exemption of their poſſeſſions; but learn, if you pleaſe, from the " laymen, who are diſcreet and fear God, what ſhould be done with " thoſe, who do alledge it; for I at preſent purpoſely omit them, that " it may not be ſaid, that I dictated voluntary laws and milder or- " dinances to men of my own condition." (*a*) From theſe conſiderations, I ſay, it is probable that Gervaſe of Tilbury did not compoſe this dialogue. Here, moſt noble lord, ariſes another difficulty, namely, that if Gervaſe of Tilbury was not the author of the dialogue, to enquire who was. It is certain, that the author of the dialogue was that ſame perſon that compoſed the book or tract called, The three column book. He expreſsly declares, that he wrote that book when he was a young man, and gives his reaſon why he called it The three column book. (*b*) This indeed proves, that the ſame perſon was the author of the dialogue, as was of the three column book; but it does not inform us who that was. Upon the whole, it will be eaſy to ſolve this difficulty, if credit is to be given in this caſe, (and unleſs I am much miſtaken, it is, and with juſtice too,) to Alexander de Swereford, a moſt remarkable man, whom I have often mentioned above: he ſpeaks in this manner in his preface to the obſervations he compiled concerning knight's fees. I will here briefly give you Alexander's meaning; his very words I will ſet forth in the margin. In the year of King Henry the third (he means) the fifteenth, I Alexander, archdeacon of Saliſbury, reſident in the King's exchequer at Weſtminſter, carefully peruſed the ancient annual rolls; and uſed all my endeavours to find out what military ſervices were due to the King throughout all England. And I was ſo much the more deſirous of doing it, becauſe neither Nigell, formerly biſhop of Ely, King Henry the firſt's treaſurer, moſt ſkilful in the exchequer buſineſs, nor Richard biſhop of London, (who ſucceeded Nigell as treaſurer) though he has very largely treated of what belongs to the exchequer, in his tract or ſmall book above written; nor indeed William of Ely, (*c*) a man likewiſe very well verſed in the buſineſs of the revenue, under whom I ſerved in the exchequer, in the reign of King John; becauſe, I ſay, neither of theſe three made a

(*a*) B. 2. chap. 26. one and the ſame law is obſerved, &c.

(*b*) B. 1. chap. 5. it is a little book, &c.

(*c*) Not William of Longchamp, biſhop of Ely, as the famous John Selden has it, by miſtake, in his book, intituled, titles of honour, p. 573.

full enquiry about it, or if they did, committed their enquiries to writing. This Alexander the archdeacon clearly diſcovers, who compoſed the tract concerning the exchequer, generally aſcribed to Gervaſe of Tilbury, that Richard biſhop of London, the ſon of Nigell, was the perſon. That Richard, ſon of Nigell, was formerly King Henry the ſecond's clerk, for whom diſcharging the office of treaſury, he ſerved many years in the exchequer: (*a*) he was made biſhop of London by King Richard the firſt, in the beginning of his reign. Then this is to be obſerved, that Alexander the archdeacon's proem, begins at the forty-ſeventh folio of the red book: and the tract concerning the exchequer, attributed to Gervaſe of Tilbury, is deſcribed in the folio's next and immediately preceding that forty-ſeventh, in the ſame red book, (as I hinted in the former part of this epiſtle,) for the tract begins from the thirty-firſt folio, and ends at the forty-ſixth. Nor is there any other tract, or ſmall book concerning the exchequer buſineſs, to be found in the preceeding folio's of the red book: and therefore, if I am not deceived, it evidently appears from what Alexander the archdeacon relates in writing of Richard, biſhop of London, and his tract concerning the exchequer buſineſs, in the preceding folio's of the red book, that Alexander thought, that Richard, biſhop of London was the author of this tract. The very words of Alexander's preface, which I here produce as evidence, are added below in the margin. (*b*) That

(*a*) Mad. hiſt. excheq. chap. 2. ſect. 10.

(*b*) In the year of our Lord 1230, that is to ſay, in the fifteenth year of the reign of King Henry, ſon of King John, who was King Richard the invincible's brother, who was King Henry's ſon, whoſe mother was Maud the Empreſs, whoſe mother Maud was Queen of England, whoſe mother Margaret was Queen of Scotland, whoſe father was Edward, whoſe father was Edmond Ironſide, whoſe father was Ethelred, whoſe father was Edgar the pacific, whoſe father was Edmund, whoſe father was Edward the elder, whoſe father was Alfred the great, who was the ſon of King Eadulf, who was the ſon of Egbricht, whoſe father was Alcmund, whoſe father was Effa, whoſe father was Eppa, whoſe father was Ingels, whoſe brother was the moſt famous King Ina by name, whoſe father was Cenred, who was Ceodwald's ſon, who was Cuth, who was Cuthwin, who was Chelulin, who was Chenric, who was Creod, who was Cerdic, who was Eleſa, who was Ela, who was Geivis; he was the head of his nation, from whom all that nation took its name. His father was Wig, whoſe father was Freawine, whoſe father was Freodegar, whoſe father was Brand, whoſe father was Bealdaes, whoſe father was Woden, who was Frithwald, who was Frealaf, who was Freothwulf, who was Fritholwulf, who was Geta, who was Geatwa, who was Ben, who was Sceldwa, who was Heremond, who was Itermod, who was Bathka, who was Wala, who was Beadwid, who was Sem, whoſe father was Noah, who was Lamech, who was Methuſala, who was Enoch, who was Jareth, who was Malaleel, who was Cain, who was Enos, who was Seth, who was Adam of the ſon of the living God: I Alexander archdeacon of Saliſbury, reſident of the King's exchequer at Weſtminſter, under Hubert de Burgh earl of Kent, juſtice of England, Walter Kaerleon, treaſurer of the exchequer, Ralph biſhop

worthy

worthy man, Alexander the archdeacon, mentions our dialogue in the words of " the above book," almoſt in the ſame manner, in another paſſage of the red book, " what (ſays he there) danegeld is, and why aſſeſſed, is expreſſed in the above book," (*a*) he certainly means the eleventh chapter of the firſt book of the dialogue: whom therefore Alexander the archdeacon, almoſt cotemporary with Richard, biſhop of London, Nigell's ſon, looked upon as the author of this tract, why ſhould not we likewiſe believe him to be ſo?

We have now, moſt noble lord, found out the author of the dialogue. This being done, there's no neceſſity to ſpeak much in its praiſe: it is ſufficient to ſay, the dialogue was wrote by a man who had the greateſt knowledge in the revenue buſineſs, and moſt learned for his time. If any one will carefully peruſe the dialogue, I doubt not but he will be of my opinion, both as to its not wanting any of my recommendation, as that it far exceeds any eſteem or worth I can ſet on it: nor do I rely on my own opinion only; I appeal to others. It has long ago been quoted by many of the learned, as a tract of ſo great authority and eſteem, as to exceed all others of its kind. Indeed the famous James Tyrrell (who has laboured in the hiſtory of England) does not ſpeak very honourable of him in his introduction, (*b*) he ſays, " It has been

biſhop of Chicheſter, the aforeſaid King's chancellor, examining the annual rolls of the ancient Kings of England, I was particularly careful in this reſpect, to make the ſtricteſt ſearch I was able, of the military ſervices due to the King, throughout the kingdom of England; as neither Nigell, formerly biſhop of Ely, King Henry the firſt's treaſurer, a man fully inſtructed in the knowledge of the exchequer, nor Richard biſhop of London, his ſucceſſor to the ſame office, though he has treated much of the buſineſs of the exchequer in the above tract of his little book, nor William of Ely, a man very ſkilful therein, under whoſe government, in the time of King John, I ſerved a long time, have ſettled any thing certain concerning them. Looking upon that common expreſſion in every body's mouth, at that time, as fooliſh and ſurprizing, that King William, Duke of the Normans, infeoffed thirty-two thouſand knights ſervices in conquering the kingdoms, becauſe he did not leave rolls of this matter to his poſterity, Kings of England, nor had his annual rolls been ſeen by any in my time, except the roll of Wincheſter, or Domeſday, or the book of hides; by which indeed he briefly included, (having taken an exact ſurvey of them) the hides of all England, and the tenants of them, in the twenty-fourth year of his reign, throughout the counties of his whole kingdom; it may not without reaſon be doubted, upon argument, whether the ſame King's ſucceſſors could be ignorant of theſe military ſervices; becauſe when King Henry, ſon of the Empreſs, gave his daughter Maud in marriage to the duke of Saxony, he demanded of every knight of his kingdom, one mark in aid of the marriage, commanding by a public edict, that every prelate and baron ſhould ſignify, how many knights held of him in capite by their public inſtruments; which inſtruments ſeparately throughout each county, under the aforaſaid William of Ely, I have collected into one volume. You will find lower, the names of thoſe, who ſent their deeds, the number alſo of feuds, and lower, the money paid that was before aſſeſſed in the fourteenth roll of the reign of the ſame King, under the title " Aid, for marrying the King's eldeſt daughter." Red book 47, marked folio a.

(*a*) Red book fol. 186, a. cited in Mad. hiſt. exch. chap. 17. ſect. 1.

(*b*) Tyr. hiſt. Eng. vol. 2. Introd. p. 47, 48. where is alſo ſomething more concerning Gervaſe, which I do not chooſe to mention.

" been

" been much doubted by ſome of our antiquaries, whether that tract " was wrote by Gervaſe of Tilbury or not: for ſir William Dugdale " and ſir Simonds D'Ewes were of opinion that he did not write it; as " appears from ſome of their manuſcript notes, which may be ſeen at " this day: tho' he could not tell what reaſons they had for that opi- " nion; yet it was moſt likely they had ſufficient to ſatisfy them, that " that tract (namely the dialogue) was " ſpurious," or elſe they would " never have left ſuch notes upon it behind them:" thus the learned Tyrrell. But when I diſputed this matter with him, ſome time ago, he of his own accord acknowledged to me, and moreover agreed to my proteſting in public in his name, that this was his meaning, by the word, " ſpurious," to wit, that the dialogue was not generally aſcribed to its real author; or that Gervaſe of Tilbury was not, in his opinion, the author of it. As to me, I will ſay what I think: the eſteem and reputation of the dialogue ſeems too durable and too much eſtabliſhed to be undermined, or even weakened by the judgment of any private writer.

I have done as much as lay in my power, in publiſhing this edition, to preſerve to the reader the genuine text of the dialogue: therefore I have given the text throughout, as it is in the red book of the exchequer, * and have placed the various readings to be met with in the red book at the bottom of each page; yet I was obliged ſometimes to apply words taken from the red book to the text, in order to reſtore and make it perfect where it was barbarous or unintelligible, and I have now and then added ſome remarks, ſuch as I was at preſent able to make; perhaps I ſhall add more, unleſs my domeſtic affairs and illneſs prevent me; but yet I am in hopes they will not ſtand in need of many annotations or explanations: ſince a diligent reader may ſupply them out of the foregoing hiſtory of the exchequer. I forbear ſpeaking any more here concerning the dialogue. Farewell, moſt illuſtrious lord.

black

Dated from the Middle Temple at London, in the year of our Lord 1708.

* *The reader will be pleaſed to obſerve that all the various readings in the original, are not to be met with in this tranſlation; the reaſons are too obvious to be mentioned, for which he refers himſelf to the original.*

☞ The pages in this tranſlation are agreeable to thoſe in the Latin wrote by T. Madox, Eſq;

THE

THE

ANCIENT DIALOGUE

CONCERNING THE

EXCHEQUER.

The FIRST BOOK.

PROEM.

WE muſt ſubmit to, as well as obey in all fear, powers ordained by God; for all power proceeds from the Lord God: therefore it is not abſurd or ſtrange that eccleſiaſtical perſons to preſerve their own rights, ſhould obey kings and the reſt of the magiſtrates, eſpecially in thoſe things which do not contradict truth or honeſty. But they ought to be obeyed, not only that they may preſerve their dignities, by means whereof the glory of Royal Majeſty beams forth, but alſo in the multitude of worldly occaſions that happen to them by reaſon of their condition. For the former embelliſhes, the latter renders them uſeful. Beſides, the plenty or want of nobility encreaſes or diminiſhes the power of princes. For thoſe who ſtand in need of them are a prey to their enemies, but thoſe whom they ſupport ſubmit themſelves a prey to them (*a*). Indeed, though it falls out that theſe things often happen to kings by a right not thoroughly conſidered, but ſometimes by the laws of their country, and ſometimes by the ſecret deliberations of their own hearts, or at other times according to the ſole inclination of their own will; yet their actions are not to be examined or condemned by the inferior part of mankind, for their cauſe (whoſe hearts and motions of their hearts are in the hands of God, and to whom the care of their ſubjects is in a peculiar manner committed by God himſelf)

The learned reader is deſired to take notice of the following few particulars before hand. The running text of this dialogue is for the moſt part taken from the Black Book of the Exchequer, unleſs when the Red Book has a more perfect or correct text, and then the words of the Red Book are taken into the text, and the words of the Black one placed in the margin; ſometimes the matter was arbitrary to take ſome words from the Red or Black Book, and then I put the one or the other, as I thought beſt ſuited the purpoſe. But as the Black Book has no numbers or heads of chapters, I have placed them as taken out of the Red Book, in which they are all deſcribed in vermillion. I have added the readings of the Red Book which vary from the text of the Black one, and have thruſt them into the margin of each page of the printed dialogue. But I ought not to be blamed, becauſe the ſenſe of the famous author is doubtful in ſome paſſages, by reaſon of the text of the MSS. books not being perfect or fair. The letters R. B. ſignify the Red Book, B. B. the Black Book.

This proem beginning with *We muſt ſubmit*, &c. is in the Black Book at folio 18. a. in the Red Book at folio 31. a. column the firſt.

(*a*) R. B. But thoſe whom they ſupport ſubmit themſelves in the above to them.

ſtands

ſtands or falls only by divine, not human, judgment. Yet no one, however rich he may be, if he acts otherwiſe, ſhould flatter himſelf with the hopes of coming off with impunity, ſince it is thus written of them, the powerful ſhall undergo heavy puniſhments. Therefore whatever is, or ſeems to be, the cauſe or manner of acquiring power, they who, by reaſon of their office are aſſigned to their care, ought not to be negligent, but, as earneſt and diligent in collecting, preſerving or diſtributing of the ſame, as if they were to give an account of the condition of the kingdom defended by their means. We know indeed that kingdoms are chiefly governed (*a*) by prudence, fortitude, temperance or juſtice, and other virtues, therefore all worldly rulers muſt inſiſt upon them by all means upon all occaſions; but it happens ſometimes that what is conceived from mature deliberation or an excellent intention, may have (*b*) its effect from this as from a certain eaſy method of buſineſs; but it is neceſſary not only in time of war but alſo in time of peace; for the one is employed in ſtrengthening cities, in raiſing ſupplies (*c*), and upon many other occaſions, according to the quality of perſons, towards preſerving the kingdom; but the other, though arms are at reſt, is made uſe of by devout princes towards building magnificent ſtructures, Chriſt is fed and cloathed as a poor man, and beſtowed in charity, by inſiſting on other works of charity: but the glory of princes exiſts in heroic actions, as well in time of peace as in time of war; and even they ſurpaſs themſelves when proſperous traffick, likely to laſt for ever, is thereby purchaſed at a temporary expence. Upon this account, illuſtrious king, the greateſt of worldly princes, becauſe we have often ſeen you glorious as well in peace as in war, not in the leaſt ſparing the money of the treaſury, but inſiſting on lawful expences, according to the place, time and perſons, we have devoted a ſmall part of your excellence, not compoſed indeed of great matters or lofty language, but of neceſſary obſervations on your exchequer in a plain ſtyle. Beſides, we have ſeen you ſometimes ſo anxious as to diſpatch (*d*) diſcreet perſonages and convene the then lord of Ely before you. Nor was it ridiculous for a man of ſo excellent a genius, a prince of ſo ſingular a capacity, to make even theſe his concern, among other affairs of greater conſequence. The exchequer is not imprudently ſupported by its own laws, but by the advice of the Great; whoſe accompts, if regularly kept, its rights may be preſerved in every reſpect, and the revenue got in as it becomes due, to be diſpoſed of as you ſhall think proper.

(*a*) R. B. and laws ſubſiſt.
(*b*) R. B. has.
(*c*) R. B. in raiſing ſupplies *omitted.*
(*d*) R. B. as to diſcharge *omitted.*

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Chap. XV. The uſe of the king's ſeal in the treaſury.
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Chap. XVII. What an hide, an hundred, and a county, mean, according to the general opinion and common acceptation of the words.
Chap. XVIII. The tax-roll.

Theſe chapters are in the Black Book folio 18. b. but without numbers; they are as here in the Red Book, folio 31. a. col. 2.

(*e*) R. B. why.

(*f*) R. B. Sometimes the money itſelf, ſometimes the place in which it is kept.

INTRO-

INTRODUCTION.

AS I was ſitting at the window of a tower near the river Thames, in the twenty-third year of the reign of king Henry the ſecond, I heard a man ſpeaking to me in a rage, ſaying, Maſter, have you not read that there is no profit in knowledge or it's hidden treaſure? Who when I anſwered I have read it, immediately replied, Why therefore do you not teach others the knowledge of the exchequer, which you are ſaid to be perfect maſter of, and commit it to writing, to prevent its dying with you? Then I: Behold, brother, you have now ſat in the exchequer many years, and are ignorant of nothing, whereas you are ſcrupulous, and ſo probably others are who have ſat there. But he: Juſt as thoſe often ſtumble who walk in the dark and grope out their way with their hands, ſo there are many that ſit there who ſeeing do not ſee, and hearing do not underſtand. Then I: You talk irreverently, for neither is the knowledge ſo great, or concerning ſo great things; but perhaps there are ſome that have great ſouls, as eagles have feet, who do not retain ſmall things, and whom great ones do not eſcape. And he: Be it ſo. But although eagles fly higher, (*a*) yet they reſt upon and refreſh themſelves with low things; and therefore I deſire you will explain low things, (*b*) which may be of ſervice to the eagles themſelves. Then I: I was afraid of compoſing a work of this ſort, becauſe it is ſubject to corporeal ſenſe, and grows cheap by daily uſe; nor is there, or can there be, a deſcription of witty things, or a pleaſant invention of novelty. And he: Thoſe who delight in novelty, who aim at witty things, have Ariſtotle's and Plato's works, let them conſult them; you do not write witty but uſeful things. Then I: It is impoſſible to ſpeak of thoſe things you deſire but in plain diſcourſe and common words. But he, as if extremely angry, ſays, Nothing is got ready ſoon enough for an hungry ſtomach: the writers of arts ſeem to have had great knowledge, and ſince art is more difficultly known, they have collected much, and rendered themſelves obſcure by making uſe of unknown terms; but you do not undertake to write art, but certain cuſtoms and laws of the exchequer, which, as they ought to be common, it is neceſſary to make uſe of com-

The dialogue begins fol. 31. b. col. 1. in the Red Book.

(*a*) R. B. ſwifter.
(*b*) R.B. that the low things be explaind to me.

mon

mon words, that the expreſſions may bear ſome analogy to the things treated of. Beſides, though one may oftentimes invent new names, yet I deſire you will be pleaſed not to ſcruple making uſe of the uſual phraſes you ſhall eſteem proper for your purpoſe, nor ſuffer new difficulties, occaſioned by unuſual words, to confound us any more. Then I: I perceived you was angry, but be of a more even temper; I will do what you deſire me. Riſe, therefore, and ſit oppoſite to me, and interrogate me concerning thoſe things which puzzle you: but let us both be more diſcreet. And he: With all my heart; though it is ſhameful and ridiculous for an old man to begin his A, B, C; yet I ſhall proceed from the very elements themſelves.

CHAP. I.

What the Exchequer is, and the reaſon of its name.

Scholar. WHAT is the exchequer?

Maſter. The exchequer is a ſquare board of about ten feet in length and five in breadth, fixed up in the ſhape of a table for people to ſit round; it has a border of about four feet high all round it, to prevent any thing falling off that is ſet upon it; and a cloth bought in Eaſter term, not any ſort, but one marked with black ſquares diſtant from each other about a foot or a ſpan, is laid upon the upper exchequer. In the ſquares are counters regularly placed, of which we ſhall ſpeak hereafter. But though ſuch board is called the exchequer, yet this name is changed, as alſo the court itſelf, which ſitting in the Exchequer, is called the exchequer; ſo that if at any time (*c*) any thing is ordered (*d*) by the ſentence of the common aſſembly, it is ſaid to be done at the Exchequer ſuch or ſuch a year. But what is now ſaid at the exchequer, was formerly ſaid at the tallies.

S. Why is it ſo called?

M. I cannot at preſent think of a more probable reaſon than that it is like a cheſs-board.

S. What, did the prudence of the ancients ſo call it for its form only, when for the ſame reaſon it may be called a checker-roll?

(*c*) B. B. if any one.

(*d*) B. B. inſtituted.

M. I had

M. I had cauſe for ſaying you was ſcrupulous. There is another reaſon, but it is a more remote one; for as the counters are put in order for engagement in the exchequer, and proceed or deſiſt by certain laws or limits, ſome preſiding, and others preceding, ſo here ſome preſide, and ſome attend by reaſon of their office, and no one is at liberty to exceed the fixed laws, which will be manifeſt from what follows. Alſo as in the game, — a skirmiſh is had between kings, ſo here the conteſt and skirmiſh is chiefly between two, namely, the treaſurer and ſheriff who attends (*a*) to accompt, others attending as judges to ſee and determine (*b*).

Game at chess

S. What is the accompt taken by the treaſurer, when there are many there whom one would ſuppoſe were ſuperior by reaſon of their authority?

M. That the treaſurer is to receive the accompt from the ſheriff is plain from this, that the ſame is required of him when the king pleaſes, for (*c*) what he had not taken would not be demanded of him. But there are ſome who ſay that the treaſurer and chamberlains are liable only for thoſe ſums which are entered on the rolls in the treaſury, that they are to give an accompt of theſe. But it is more probable to believe that they are anſwerable for every thing on the roll; which may appear from what follows.

CHAP. II.

That there is one called the Upper Exchequer, the other the Under, but the origine of both the ſame.

S. IS that (*d*) the only exchequer in which ſuch conteſt is had?

M. No. There is the under exchequer, alſo called the receipt, where the money is delivered to be told out, and reduced to tallies and writing, that the ſame may be afterwards accompted for in the upper. Yet the origine of both is the ſame, for whatever is paid in the upper, is paid here, and what is paid here, is accompted for there.

(*a*) B. B. Sheriffs who attend.
(*b*) and determine *omitted*.
(*c*) R. B. for *omitted*.
(*d*) B. B. that *omitted*.

CHAP.

CHAP. III.

The reaſon or inſtitution of the Under one, through all its offices.

S. WHAT is the reaſon or inſtitution of the under exchequer?

M. I ſee you will not be ignorant of any of theſe things. You muſt know that the under one has its own people, diſtinct from one another, by reaſon of its offices, but equally intended for the king's advantage; with a ſaving, however, of equity, all the attendants ſerving not in their own but in their maſter's names, except two officers only, (*e*) one who preſides over (*f*) the examinations, and the melter. Theſe offices depend on our king's pleaſure, whence they ſeem rather to belong to the upper than the under exchequer, as will be obſerved hereafter. There is the clerk of the treaſurer (*g*) with his ſeal. There are alſo two attendants of the chamberlains. There is likewiſe a certain (*h*) officer who may be called the caſhier, becauſe it is his duty to examine the ſilver. The melter alſo examines the ſilver. There are likewiſe four tellers who tell out the money. There is alſo an uſher and watch belonging to the treaſury. And theſe are their ſeveral duties. The treaſurer's clerk, after the money is told out and put by hundred pounds into forules, fixes his ſeal to them, and makes a memorandum how much, or by whom, or on what account he received it, and alſo ſhortens the tallies made by the chamberlains from the ſame receipt; but he fixes his ſeal not only to the bags of money, but likewiſe, if he thinks proper, to each cheſt and ferrile which contains rolls or tallies; and has a ſtrict eye over all the officers under him, and nothing is concealed from him. This is the duty of the attendants, who are likewiſe called chamberlains becauſe they officiate for the chamberlains: they have the cuſtody of the keys of the cheſts, for each cheſt has two different locks, to prevent either of their keys fitting the other's lock; and they have the cuſtody of theſe keys; but each cheſt is girted with a ſtrong ſtrap of leather, upon which alſo is affixed the treaſurer's ſeal after the locks are faſtened, that none of them may be able to get at it without general conſent. It is alſo their duty to weigh the money that is told out and put in wooden veſſels by hundred ſhillings, to ſee whether there is any miſtake in the reckoning, and then to put it into forules by hundred pounds, as was ſaid. If any veſſel is found to contain leſs, it is not put up according to what is thought to be the value of it, but is immediately thrown into the

(*e*) R. B. only *omitted.*
(*f*) R. B. namely he who preſides over.
(*g*) R. B. Treaſury.
(*h*) R. B. certain *omitted.*

heap

heap that is to be told over again, there being ſome doubt of its being right. And obſerve, that ſome counties, from the time of king Henry the firſt, and in the time of king Henry the ſecond, might lawfully offer in payment money of any coin, provided it was ſilver and not deficient in lawful weight; becauſe, not having coiners from the ancient inſtitution, they acquired money from every quarter, ſuch were Northumberland and Cumberland: but the money thus received, though ferme, was ſet apart from the other, with certain marks to it; but the reſt of the counties brought the only uſual and lawful money of the ſtanding coin, as well for ferme as fines. But after the illuſtrious king, whoſe praiſe is greateſt in things of moment, ordained under his reign one meaſure and one coin throughout the whole kingdom, every county began to be held and bound by neceſſity of law, and the reſtoring of general commerce, (*a*) ſo that all paid the ſame ſort of coin, however they were bound, yet all did not ſuffer the loſs of examination (*b*) occaſioned by the melting it down. Beſides, they make tallies from receipts, and it is uſual for them, with the treaſurer's clerk, to lay out the money received by virtue of the king's writ, or precept of the barons, but not without the approbation of their maſters. All theſe three are ſent together, or by turns, with the money when it is neceſſary. Theſe three have the chief care of every thing that is tranſacted in the under exchequer.

S. Therefore, as it appears to me, they may by virtue of the king's writ, or precept from thoſe who preſide, lay out the money received, provided it be with the approbation of their maſters.

M. They may, I ſay. This is only entruſted to them for the liveries of thoſe who ſerve the under exchequer, and trifling neceſſaries bought for the exchequer, as the wooden veſſels, and other things of which I ſhall ſpeak hereafter, otherwiſe not. But they who bring the king's writ, or other written authority for money, have paid them, by command of their maſters, what is expreſly mentioned (*c*) in the writ, upon this condition, to tell the money received before they go away, that in caſe it be deficient they may return to the exchequer and make

(*a*) R. B. for, commerce, is a blank.
(*b*) B. B. levying of money.
(*c*) R. B. what is expreſly mentioned *omitted*.

oath to this effect: That they have brought back again as much as they received, without having laid it by, as is uſual in other caſes; and upon doing this, what remains due is paid them, the ſame being firſt told in the preſence of all, by the appointment of the tellers. But if they have got out of the treaſury door, after having the terms propoſed to them, let them be who they will, or the loſs ever ſo great, they will not be allowed it. The duties of the caſhier and melter ſeem to have a connexion one with the other, and belong rather to the upper exchequer, therefore I ſhall explain them together with the reſt of the offices. This (*d*) is the duty of the four (*e*) tellers: When the money is ſent into the exchequer to be told, one of them carefully mixes the whole together, that the better ſort may not be ſeparated from the worſe, but mixed, and made full weight; after which the chamberlain weighs as much as balances by the exchequer ſcales. That if twenty ſhillings exceed, in reſpect of the balance, ſix pieces, it is ſaid to be received in full (*f*); but if it amounts to ſix pieces, or under, it is taken, and carefully told by the tellers in hundred ſhillings, as has been ſaid. But if the money is ferme, and is to be examined, it is put ſeparate from the heap into a box, after a mixture of forty-four ſhillings; and to this the ſheriff affixes his ſeal, that afterwards an examination, which is commonly called an aſſay, may be made of it; as will clearly appear from what follows. But they who have charge of the receipt by their maſter's kindneſs, ſhould take care, that is, the clerks of the treaſurer and chamberlains, to put by ſeparately the money received, the quantities of examined ſilver, and the ferme, and alſo affix ſome certain marks to the bags, that in caſe the king chooſes to have ſome ſilver veſſels for the ornament of a church, or for the ſervice of his palace, or money to go beyond ſea, he may have it out of theſe.

S. There is ſomething in what you have ſaid that methinks is pretty extraordinary.

M. What is it?

S. You ſaid, if I remember rightly, that ſometimes money is brought to the exchequer to be paid which is adjudged too bad to be received,

(*d*) B B. this *is omitted.*
(*e*) B. B. four *is omitted.*
(*f*) R.B. unworthy to be received.

that

that is, if upon weighing it in the ſcales in the exchequer it is found under weight by ſix pieces. Whereas every coin of this kingdom ſhould have the king's effigy ſtamped upon it, and all coiners are bound to work to the ſame weight, how can then any piece they coin not be of the ſame weight?

M. You aſk a thing of conſequence, and which muſt have another ſort of enquiry; but it may be done by falſe coiners, clippers and filers of money. You know the coin of England may be counterfeited in three reſpects, that is, weight, currency, and ſtamp (*a*); yet each of theſe offenders is not puniſhed in the ſame manner. But more of this another time.

S. Be pleaſed to proceed in the offices as you have begun.

M. The uſher is to take care to ſhut out, or admit in, what ought ſo to be; and to be very careful of every thing within doors; wherefore, by reaſon of the door, he has two pence for every writ that is iſſued out. He ſupplies them with forules to put the money in, and rolls and tallies, and other neceſſaries for the year; and has for each forule two pence; he provides proper wood for the tallies of receipt and accompts, and this once in Michaelmas term, when he receives five ſhillings for the wood for tallies. He finds the ſmall wooden veſſels, bags, and ſtraps of leather, and other trifling neceſſaries of the treaſury. Two ſhillings are due to him in the ſame term for ink for the whole year, which he claims as ſexton of the largeſt church in Weſtminſter, by an ancient right. The duty of the watch is the ſame there as elſewhere, that is to ſay, to be moſt diligent and careful in the night, eſpecially of the treaſury, and every thing lodged in it. Thus you have all the offices diſtinct who ſerve the under-exchequer; and they have ſeveral liveries while the exchequer continues, that is, from the day they meet to the day there is a general ceſſation. The under-treaſurer's clerk has five pence a day; the ſame treaſurer's ſcribe has alſo five pence: in the upper exchequer the chancellor's ſcribe the ſame; two officers who keep the keys each eight pence for their ſervice, for it is ſaid they are obliged to provide neceſſary horſes and arms that they may, when ſent from the treaſury more conveniently (*b*) do their duty. The caſhier twelve pence (*c*) a day; the melter five pence; the uſher of the upper exchequer five pence: each of the four tellers three pence (*d*); if they be (*e*) at

(*a*) B. B. has a clauſe beginning at *England*, and ending at *Stamp*, conſiſting of fifteen words, wrote in modern characters.
(*b*) R. B. conveniently *omitted*.
(*c*) R. B. pence *omitted*.
(*d*) R. B. pence *omitted*.
(*e*) R. B. are.

London or Wincheſter each has two pence, becauſe they enter upon their offices from thence (*f*). The watch one penny and an half-penny every night, to find lights for the uſe of the treaſury.

(*f*) It is delivered down by tradition, that the king's treaſury in former ages was at Wincheſter as well as at Weſtminſter. King William the ſecond went to Wincheſter, and opened that treaſury, and the heaps of gold and ſilver which his father had amaſſed, &c. thus ſays the Saxon Chronicle page 192. numb. 20. Perhaps upon this account the Domeſday-Book which (the famous author of this dialogue ſays) was always kept in the treaſury, was called The Book of Wincheſter. We find it ſo called in the ſupplement of Robert de Bruis's Feud, added at the end of the ſaid book, though not of the ſame writing, yet not very different from it. This is Robert de Bruis's which Feud, was given after the book of Wincheſter was wrote, namely in Ouſtredinc this Robert holds forty-four carves of land in his domain and lordſhip. Domeſday Book fol. 333. b. col. 1. after Yorkſhire. Hence alſo is frequent mention made of the king's treaſury being carried to Wincheſter, repoſited there, and brought up from thence. Many ſums of money were placed to the accompts of the ſheriffs of Hampſhire, who farmed the city of Wincheſter, and others in the time of king Henry the ſecond, and afterwards, by them laid out in repairing the treaſury-houſe at Wincheſter, in forules, and other neceſſaries for numbering the money there, and in carrying it thither, and bringing it from thence, and the like. For inſtance, ſuch ſort of a charge was placed to the accompt of Hugh de Gundevill, ſheriff of Hampſhire and farmer of the city of Wincheſter, in the eighteenth year of king Henry the ſecond. The ſame ſheriff [Hugh de Gundevill] accompts for the ferm of the city of Wincheſter in the treaſury nothing, and one mark in ſettled alms to the knights templars, and forty-eight ſhillings and ſix-pence in managing the treaſury for one whole year, and for filling and unfilling the treaſury, and in other trifling buſineſs of the treaſury, by Odo of Faleſia and Walteran of Crickelad, and other of the treaſury ſervants; and thirty pounds to William of Lanvaley's ſervants for covering in the treaſury and buildiug a goal, by the king's writ. Great roll of 18 H. 2. roll 6. b. Hampſhire. Sixteen ſhillings and ſixpence to the ſheriffs of London in the twentieth year of H. 2. for carrying the treaſury three times, once to Windſor, twice to Wincheſter. Great roll, 20 H. 2. roll. 2. a. London and Middleſex. Eleven ſhillings to the then ſheriffs of London in the twenty firſt and twenty-fourth years of Henry the ſecond, for hiring carts to carry the treaſure of Michaelmas term to Wincheſter. Great roll 21 H. 2. roll. 3. a. Lond. and Midd. And ſeventy-ſeven ſhillings and ſeven pence, by Odo of Faleſia and Richard of Windſor, and Andrew his clerk, for carrying the treaſury three times from London to Wincheſter. Great roll 24 H. 2. roll 9. b. Lond. and Midd. Twenty-five ſhillings and two-pence to Hugh of Gundevill, farmer of Wincheſter, in the ſame twenty-fourth year, for two large hinges, and for repairing the door of the treaſury at Wincheſter, and for carrying the treaſure often, by Andrew and Richard his clerks, and other of the treaſury ſervants. Great roll 24 H. 2. roll 8. a. City of Wincheſter. Six pounds nineteen ſhillings and eight pence to Geoffry ſon of Azon, ſheriff of Hampſhire, a cuſtomary fee, for numbering and weighing the treaſure at Wincheſter after his birth-day, and for new forules to lay by the ſame treaſure in, and for other trifling affairs towards the aforeſaid buſineſs, by the archdeacon of Canterbury and Hugh Bardulf and Ralph ſon of Stephen, and four pounds and eight ſhillings and three pence for carrying the treaſury from Wincheſter to Saliſbury, Oxford and Guildford, and to many other parts of England. Great roll 33 H. 2. roll 14. a. Southamptonſhire. Geoffry ſon of Azo the ſheriff. And eleven pounds and one mark by the king's writ to the farmer of the city of Wincheſter, in the tenth year of king John, for reckoning forty thouſand marks there, in the treaſurer's and chamberlain's liveries, who tarried at Wincheſter; and for the purchaſe of bags, lead, planks, locks, cords and other neceſſaries; and thirty ſhillings by the ſame writ for one ſhield and one target; and alſo twenty ſhillings by the ſame writ to the treaſury ſervants, and for the chamberlain's expences at Wincheſter. Great roll 10 Joh. roll 6. b. tit. Wincheſter City. And to others in the like manner.

S. Why

S. Why is the uſher of the treaſury the only perſon who does not receive his livery?

M. I do not really know. Yet it may be becauſe he receives ſomething by the door, and for providing forules and tallies; and therefore perhaps he did not receive a livery; or poſſibly becauſe he is not looked upon to ſerve the king, but rather the treaſurer and chamberlains, in keeping the door of their houſe. The under exchequer or receipt ſubſiſts by this law.

S. I am ſo far ſatisfied in this reſpect, that I think nothing is omitted. Now therefore be pleaſed to proceed to the upper exchequer.

CHAP.

CHAP. IV.

What the authority of the Upper Exchequer is, and whence it took its origine.

M. ALthough the duties of thoſe who attend at the upper exchequer ſeem to be diſtinct in certain properties, yet the duty and intention of them all (*a*) is one and the ſame, viz. to take care of the king's intereſt, yet with a ſaving of equity, according to the eſtabliſhed laws of the exchequer. But its reaſon or inſtitution is confirmed as well by antiquity as the authority of the great men who ſit there; for it is ſaid to have begun from the conqueſt made by king William; but its model was taken from the exchequer beyond ſea: yet they differ in many things, and moſtly in things of moment. There are ſome who are of opinion that it was made uſe of under the Anglo-Saxon kings, taking their grounds of the affair from hence, that the very ancient farmers of thoſe eſtates appropriated to the crown, whoſe memory of theſe things is unexceptionable, being told by their anceſtors, who beſt know how much *de albo fermæ* or blanched ferm they are bound to pay for each pound. But this knowledge is concerning the payment of the ferme, not of the ſeſſion of the exchequer. Yet thoſe who ſay that the *album fermæ* began from the time of the Anglo-Saxons ſeem to contradict them; becauſe the value of every eſtate is ſet forth, but no mention at all made of the *album fermæ* in the book of judgment, in which is contained an exact deſcription of the whole kingdom, as well from the time of king Edward as from the time (*b*) of king William, in whoſe reign it was made. Whence it ſeems probable that the ſurvey made in the time of the juſt now mentioned king concerning the *album fermarum* was formed by his learned men, for reaſons hereafter obſerved. But at whatever time the uſe of it began, it is certain that it was confirmed by the authority of the Great; inſomuch that no one could break through the ſtatutes of the exchequer, or otherwiſe raſhly oppoſe them. For it has this in common with the court of the lord the king, in which he himſelf ſits as judge (*c*) in his own perſon, that no one is ſuffered to contradict a judgment given or ſentence paſſed there. But the

(*a*) B. B. all *omitted.*
(*b*) B. B. from the time *omitted.*
(*c*) See Mad. Hiſt. of Exch. chap. 3. ſect. 5. & 6.

authority

authority of this court is ſo extraordinary, as well by reaſon of the excellence of the royal effigy preſerved by an inſeparable law in his ſeal of the treaſury, as by reaſon of thoſe who attend, as has been ſaid, by whoſe wiſdom the whole kingdom is ſecured. The chief juſticier of the lord the king, attends firſt next to the king in the kingdom, by reaſon of the court, and all the nobility of the kingdom to aſſiſt his majeſty in ſecrets of moment with their friendly advice, that what ſhall be agreed upon and determined in the preſence of ſuch great perſonages ſhall be inviolably obſerved. But ſome attend by reaſon of their office, ſome (*a*) by the prince's ſole command. The firſt in the kingdom, namely the chief juſticier, attends, as alſo preſides, principally by reaſon of his office; but ſome who are eſteemed of the greateſt conſequence and diſcretion in the kingdom, whether they be of the clergy or the court, attend him by the ſole command of the prince, that is a momentary and variable authority. They attend, I ſay, to judge of the law, and determine doubts, which frequently ariſe from incidental queſtions: for the excellent keowledge of the exchequer does not conſiſt (*b*) in diſputes, but multiplicity of judgments. For it is eaſy, upon propoſing the ſum required, and placing what is paid to the tax, to diſcern by ſubtraction whether it be ſatisfied, or whether any remains. But when various inquiries are made concerning the revenue, which promiſcuouſly accrues to the treaſury, and brought in divers ways by the ſheriffs, ſome find it very difficult to diſcover whether they have acted properly or not; and therefore the knowledge of the exchequer in this reſpect is ſaid to be greater. But the doubts which frequently occur cannot be comprehended in one treatiſe, becauſe as yet all ſorts of doubts have not been diſcovered, but ſuch as we know have been ſtarted or determined we will hereafter take notice of in their proper places.

(*a*) R. B. by reaſon of their office, ſome, *omitted.*

(*b*) R. B. is conſulted.

CHAP.

CHAP. V.

The duty of the Preſident, and all thoſe who attend by reaſon of their office; and how the ſeats are diſpoſed of.

S. WHAT is the duty of this ſo excellent an attendant?

M. No truer can be aſſigned than that he ſuperintends every one in the under and upper exchequer, and that each office is ſubject to his will, yet ſo as to turn out to the lord the king's real advantage; but this among others ſeems extraordinary, that he may by his atteſtation order a writ of the lord the king to be made for any ſum to be delivered out of the treaſury, or that it be placed to any one's accompt to whoſe he knew before it was to be placed by the command of the lord the king; or if he had rather, he may make out his own writ by the atteſtation of others concerning theſe affairs.

S. He muſt be a great perſon who is intruſted with the concerns of the whole kingdom, as alſo with the king's heart, for it is written "where your treaſure is there is your heart alſo." But now be pleaſed to go on with the reſt.

M. Would you chuſe I ſhould go on with them according to the dignity of the perſons, or according to the diſpoſition of the ſeats?

S. As each has his ſeat by reaſon of his office, it will be eaſy, I preſume, to comprehend the dignities from the offices.

M. That you may not be ignorant in what order they are diſpoſed, you muſt know there are four forms or benches placed in the four ſides of the exchequer. At the head of the exchequer, that is, whence the breadth is diſcerned, in the middle, not of the form but of the exchequer, is the ſeat of that chief officer whom we ſpoke of above. The chancellor, by reaſon of his office, ſits in the firſt ſeat on his left, if he happens to be preſent. An ordinary attendant whom we call the conſtable, next to him; two chamberlains next to him; but the former, in regard to his years, is eſteemed the moſt venerable. Next to them an officer who is generally called the marſhal; yet ſometimes others are added when theſe are abſent, or when they are preſent, if the authority of thoſe appointed by the king is ſo great that they ought to ſubmit to it. And this is the diſpoſition of the firſt form. In the ſecond, which is on the ſide of the length of the exchequer, the clerk, or ſome other who ſerves the chamberlains with foils, that is, with counter-tallies of receipt, is ſeated. There is a ſeat next to him (ſome being put between who do not ſit by reaſon of their

their office, but ſent by the King) as it were in the middle of the exchequer, for him who lays the accompts before him: ſome next to him, not by reaſon of their office, yet neceſſary ones. The clerk who preſides over the ſcribe, ſits at the end of that form, by reaſon of his office. This is the diſpoſition of the ſecond bench. But the now biſhop of Wincheſter, formerly archdeacon of Poictiers, ſits on the right hand of the chief juſticier, not indeed by reaſon of his office, but by a new appointment, that he may be next to the treaſurer, and carefully ſuperintend the writer of the roll. The treaſurer ſits next him, at the head of the ſecond form on the right hand, who is to take particular care of every thing carried on there, becauſe he is to give an account thereof, if neceſſary. His clerk, the writer of the treaſury roll ſits next him: an other writer of the chancery roll next him: the chancellor's clerk next him, who always takes care, with an unobſerved diligence and integrity, that his roll tallies with the other in every particular; ſo as it does not vary even in a ſingle iota, or wrote in any other method. The conſtable's clerk ſits next to him, as it were at the end of that form, an officer of great conſequence and buſineſs in the court of the lord the king, and he has an office which he executes by himſelf, or ſome diſcreet clerk, if the king eſteems him otherwiſe more neceſſary. And this is the deſcription of the third form. Maſter Thomas Brun, by name, ſits at the head of the fourth form, oppoſite to the chief juſticier (*a*) with a third roll of new eſtabliſhment, that is to ſay, added by the lord the king, becauſe it is written, "a triple cord is difficultly broke." The ſheriffs and their clerks next to him, who attend to accompt with tallies and other neceſſary things. And this is the diſpoſition of the fourth form.

S. Has maſter Thomas's ſcribe a ſeat with the other writers, or above the others (*b*)?

M. He has a ſeat, not with the others, but above the others (*c*).

S. Why ſo?

M. When the ſeats were thus diſpoſed of at firſt, that the treaſurer's ſcribe ſhould ſit at his ſide, to prevent any thing's being wrote which

(*a*) R. B. Juſticiers.
(*b*) R. B. Writers, or above the others, *omitted.*
(*c*) R. B. M. He has a ſeat, not with the others, but above the others *omitted.*

might eſcape his notice, and alſo the chancellor's ſcribe at the ſide of the treaſurer's ſcribe, that he might faithfully except what he ordered him ſo to do; and likewiſe the chancellor's clerk was neceſſary next to that ſcribe, to prevent his making a miſtake; ſo that no ſeat was left for that ſcribe in the row, therefore he has a ſeat given him above, that he may look over and watch the treaſurer's ſcribe, who firſt writes, and then excepts what ought to be excepted, by his direction.

S. He ſhould have the eyes of Lynceus to prevent his making miſtakes, for a miſtake in theſe affairs is ſaid to be of dangerous conſequence.

M. Though he ſometimes does make a miſtake in the excepting part, being at a diſtance from one another, yet as long as the rolls are corrected by all three comparing them together, the miſtakes are eaſily rectified.

S. Thus far you have ſaid enough of the order of the ſeats; now be pleaſed to purſue their offices, beginning from the preſident's left hand.

What belongs to the chancellor.

M. THE chancellor is the firſt in that order: and as he is of conſequence in court, ſo alſo he is at the exchequer; inſomuch that nothing of moment is, or ought to be tranſacted, without his conſent or advice. But this is his duty while he attends the exchequer, the cuſtody of the royal ſignet in the exchequer belongs to him, but is never taken away, unleſs carried by virtue of the juſticier's precept, by the treaſurer or chamberlain, from the under to the upper exchequer, ſolely to finiſh the buſineſs of the exchequer; which being compleated, it is put into a coffer, and the coffer ſealed by the chancellor, and then delivered to the cuſtody of the treaſurer. If neceſſary, after being ſealed in the preſence of all, it is brought to the chancellor, but never by him himſelf, or any one elſe, in any other manner. The cuſtody alſo of the chancery-roll belongs to him, by a ſubſtitute, and according to the opinion of the great men of the realm, the chancellor is equally bound with the treaſurer concerning every thing entred on the roll, except only what is entred in the treaſury, as receipt: for though he does not preſcribe what the treaſurer is to write, yet if he makes a miſtake, he or his

his clerk may decently reprimand the treaſurer, and ſuggeſt to him what is his duty. If the treaſurer will perſevere, and not alter his miſtakes, he may, if he is ſure of his charge, ſo far diſpute the matter before the barons, as to leave them to judge what ought to be done.

S. It alſo ſeems probable, that the keeper of the third roll is reſtrained by the ſame written law.

M. It is not only probable, but certain; for the authority of thoſe two rolls is the ſame (*a*), by reaſon of the contents; becauſe the author of it was pleaſed to have it ſo.

What belongs to the conſtable.

THE duty of the conſtable at the exchequer is to atteſt, together with the preſident, the king's writs iſſued from the treaſury, or ſuch things as are to be accompted for by thoſe who make up the accompt: for two witneſſes ſhould atteſt every one of theſe, by its ancient inſtitution. It is alſo his duty, when the king's ſervants come for their wages, whether they be reſident in the king's caſtles or not, taking with him (*b*) the conſtable's clerk, whoſe duty it is to know the times they are due, and the marſhal of the exchequer to reckon up their liveries, and allow the draw-backs, and order the remainder to be paid: for every livery of whatever perſon it is, whether hawkers, falconers, or bear-keepers, belongs to his office, if he is preſent, unleſs the lord the King ſhall before happen to have appointed ſome one to the ſame; for the conſtable cannot eaſily be removed by the King, by reaſon of greater or more urgent buſineſs. But you muſt obſerve, that the marſhal of the exchequer takes the liveries of the attending officers, becauſe it belongs to him on account of his office; but not of the way-faring ones. Other things alſo of moment are part of his office, that nothing of conſequence may be tranſacted without his advice,

What belongs to the chamberlains.

THE duty of the chamberlains is annexed to the office of the treaſurer, becauſe they are known to be officers from one and the ſame pretence of honour or expence, and they are equally de-

(*a*) B. B. for the authority of it is the ſame as the two rolls.

(*b*) B. B. having aſſociated to him.

ſirous of the King's favour; ſo that what is done by one of them, ſhall not be ſaid not to be done by either of them. For the treaſurer takes the accompts for himſelf, and for them, and furniſhes words for the writing of the roll, according to what is levied; in all which they are bound by the ſame law of ſociety, and ſo in other things, which are done either by him or them, with a ſaving of the lord the King's authority, whether in writing, receipt, tally, or expence.

What belongs to the marſhal.

THE marſhal is to take care of the debtor's tallies returned by the ſheriffs, which however (*c*) are marked on the roll, and to put them ſeparately in his forule: as alſo the King's writs for accompting or diſcharging, or giving thoſe things which are required of the ſheriff by ſummonce. The county is wrote on the top of that forule, which contains theſe things, and particular forules ſhould be provided for each county, for the marſhal, by the ſheriff.

S. Here is ſomething that ſurprizes me.

M. I foreſaw it well enough. But yet contain yourſelf. For every thing will be cleared up from what follows. If any debtor, not giving ſatisfaction according to the ſummonce, ought to be apprehended: he is delivered to this officer to be confined, and the exchequer of that day being broke up, he may ſend him, if he thinks proper, to a public priſon; yet he muſt not be fettered, or thrown into a dungeon, but be kept ſeparate, or in the upper appartments of the priſon: for though he is inſolvent, he ought not to be put with felons, notwithſtanding he is not an officer: for there is an order of the illuſtrious King concerning officers retained for money, which I ſhall take notice of hereafter in treating of the ſheriff's accompts. It alſo belongs to this officer, (the ſheriff's or fermer's accompt being finiſhed, or whoever attends to accompt,) to give him an oath in public, that he has made a juſt accompt according to his conſcience. But if the ſheriff, or he who accomps, is any ways indebted, he adds to the oath, that he will not depart without leave of the barons from the exchequer; that is, from the ſpace of ground in which it is ſituated, but that he will re-

(*c*) Which however *omitted*.

turn

turn the ſame day. He has alſo a particular number of ſummonces made out againſt the end of the other exchequer, ſealed with the royal ſignet, and diſtributes them with his own hand to the uſher of the upper-exchequer to be carried throughout England. Thus you have diſtinctly the offices of thoſe who ſit at the firſt bench.

What belongs to the maker of the tallies.

THE firſt, at the head of the ſecond ſeat, waits on the chamberlains, whether he be a clerk or layman, whoſe office is ſoon executed, conſiſting but of very little, and that in words, and not in labour. This officer provides tallies form the treaſury againſt the coming of the ſheriff, or of him who accompts; and when it is proper, and the accompt requires it, he changes, or diminiſhes, or adds to the tally, by putting the ſheriff's counter-tally upon it; which being done in Eaſter-term, he gives the ſheriff another longer, to be brought in, in Michaelmas-term. But in Michaelmas-term, when his ſum is tranſcribed into the written roll, he delivers the ſame longer one to the marſhal, to be laid up in his forule. of the Receipt

S. I am ſurprized to hear you ſay, that the tally once taken from, an accompt (*a*) ſhould be again (*b*) brought to another accompt.

M. Be not ſurprized, ſince (*c*) whatever is levied, or paid by the ſheriff in Eaſter-term, he muſt be ſummoned again; however not to pay a ſecond time what he has paid before; but only to be preſent at the accompt, and to produce the tally of the payment already (*d*) made, that it may be tranſcribed into the roll, and he diſcharged from his debt. For while he has the tally, he is not clear, but always liable to be ſummoned.

S. And this is neceſſary; but proceed, if you pleaſe, in the offices.

M. As we have mentioned the tallies, obſerve, in a few words, the method of accompting by tally. There is one tally, ſimply called a tally; another to ſcore the accompt with. The length of a true tally, from the top to bottom, is about a ſpan; where there is a pretty large hole bored with a gimblet. But the remembrances (which are

(*a*) B. B. that the tally of receipt once taken away.

(*b*) B. B. again *omitted.*

(*c*) B. B. for *ſince whatever* is a vacant ſpace.

(*d*) juſt mentioned, *if I judge rightly.*

always

always blanc ferme) are ſomewhat ſhorter; becauſe the aſſay being made, by which the ferme is dealbated, is firſt broken off, and a tally of combuſtion fitted to it: and it is then firſt of the length of a tally. The cutting is after this manner. At the top, they put a thouſand pounds, ſo that a cut of that thickneſs, was about as wide as the palm of one's hand. One hundred pounds, as one's thumb; twenty pounds, as one's little finger; the cut of one pound, about a grain; that of a ſhilling, leſs; but in ſuch a manner, that the vacancy occaſioned by each cut might appear about as deep as a ſmall ſlit; a penny (*f*) is diſtinguiſhed by making a cut, and not taking the piece out. But on that part of the tally on which is cut a thouſand pounds, you put no other number, unleſs it happens to be the middle part; then in like manner you take away the middle part of the cutting, and place it lower. So if one hundred pounds is cut, and you have not one thouſand pounds, you muſt do ſo; and if twenty pounds, ſo; and if twenty ſhillings, ſo, which we call a pound. If there are many thouſand pounds, or hundred pounds, or twenty pounds to be cut, you muſt obſerve the ſame rule, that the greater number be cut on the wider part of the ſame tally; that is, on that which is marked the greater number, and which is directly oppoſite to you (*g*); but on the other part, the leſs number; the greater number is (*h*) always at the top of the wider, (*i*) the leſs on the narrower, that is pence. A mark of ſilver is not ſignified by the cutting only at the exchequer, but it is diſtinguiſhed by ſhillings. Yet you cut a mark of gold in the middle of the tally, as you do one pound. But a golden one not altogether in the ſame manner as a ſilver one; for the former is cut directly through the middle of the tally, and the latter obliquely acroſs it. So that the very diſpoſition of the notches, and difference of cutting, both determine which is a golden one, and which a ſilver one. However you will underſtand all theſe things better by ſeeing them, than being told them.

S. What remains concerning theſe matters conſiſts in ocular proof. Now, if you pleaſe, proceed to the offices.

M. Next to him abovementioned, (after particular diſcreet men, ſent by the King,) ſits a perſon, who by the King's command, makes up the accompt by the method of numbering with counters. His office indeed is ſufficiently intricate and laborious, and without it the accompts

(*f*) R. B. but a penny.
(*g*) B. B. to it.
(*h*) B. B. is *omitted*.
(*i*) B. B. more powerful.

of

of the exchequer can ſcarcely ever be expeditiouſly gone through; yet no one is obliged to be reſident there, by reaſon of his office, but (a) the perſon whom the King or his juſticier ſhall appoint to execute it. I ſay it is laborious, becauſe the other offices are executed by the tongue or hand, theſe two are ſufficient; but in this, the tongue, the hand, the eyes, and the mind, are indefatigably and inceſſantly at work.

What belongs to the accomptant.

BUT this is the manner of it, according to the uſual courſe of the exchequer, not by the rules of arithmetick. I believe you may remember my ſaying, that there was a chequered cloth laid over the table in the exchequer, in the vacant ſpaces whereof, are put heaps of counters: the accomptant is placed in the middle of one ſide, that he may be ſeen by every body, and that his acting hand may have full room. But he has an heap of money (b) placed in an inferior ſpace on his right-hand, from eleven and under; in the ſecond, ſhillings, from nineteen and under; and in the third, pounds: and he ought to be placed directly fronting him, becauſe he is the midmoſt perſon in the uſual accompts of the ſheriff; in the fourth, is an heap of twenties, in the fifth, hundreds, in the ſixth, thouſands, in the ſeventh, but rarely, ten thouſand pounds; I ſay rarely, that is, when an accompt is taken by the King, or his command, by the great men of the realm, (c) of the treaſurer and chamberlains of the whole receipt of the kingdom. But the accomptant may put a ſcruple of ſilver inſtead of ten ſhillings, (d) and a golden one inſtead of ten pounds, towards the further expedition (e) of the accompt: and care muſt be taken that the hand does not go too faſt for the tongue, or contrariwiſe, but that they who accompt, reckon, and number, keep up one with the other, to prevent miſtakes in the number. The ſum therefore required from the ſheriff is placed in heaps, and thoſe which are paid are placed in the like manner below, in the treaſury or otherwiſe. If the ferme, which is demanded of him be by tale, or any other debt which can be ſatisfied by tale only, in that caſe there ſhall be only a deduction of the leſs ſum from the greater one, and he ſhall be anſwerable for the reſidue; but it is otherwiſe if he is to pay blanc ferme, which is (f) more fully ſhewn in treating of the ſheriff's accompts.

(a) R. B. but *omitted*.
(b) R. B. or monies, or numbers.
(c) B. B. when the whole receipt is taken by the King, or his command, by the great men of the realm.
(d) R. B. of ſilver inſtead of ten ſhillings *omitted*.
(e) R. B. towards the further expedition *omitted*.
(f) R. B. ſhall be.

S. Stop

S. Stop awhile, that I may reap ſome advantage from what you have been ſaying.

M. I am at your command; for I can deny you nothing.

S. It ſeems to me by the manner of accompting, that the ſame piece, though nothing more than a counter, may ſometimes go for a penny, ſometimes a ſhilling, ſometimes a pound, ſometimes an hundred, ſometimes (*g*) a thouſand pounds.

M. It is ſo, but it muſt be by a certain addition; and it may likewiſe happen, when the ſame are taken away, if the accomptant pleaſes, that that which ſtands for a thouſand, may, by a gradual deſcenſion, ſtand for one.

S. So it may happen that any one of the common people, provided he is a man, and he cannot be any thing elſe, may aſcend from the loweſt to the higheſt, by taking the temporalties to himſelf at the will of the preſident, and afterwards remaining what he was, may be reduced to the loweſt, agreeable to the rule of fortune, though it be ſelf-evident from his dignity and condition, that he has changed his own nature.

M. You know that what you ſay does not hit every nail on the head; but however others may take it, I am very well pleaſed that you put other conſtructions on theſe things; for it is commendable to ſearch after the beauties of myſterious (*b*) meanings among the thiſtles of earthly affairs; not only in what you mention, but throughout the deſcription of the buſineſs of the exchequer: ſome things are obſcure for the diverſity of officers, the authority of judicial power, the ſtamp of the king's effigy, the ſending out ſummonces, the regiſtering rolls, the accompts of ſtewardſhips of farms, the gathering in of debts, the condemning or acquitting offenders, have the appearance of an intricate examination, which will be diſcloſed when all the books are open, and the door ſhut. But ſo much of theſe things for the preſent. Let us now proceed in the offices. After him who takes care of the accompt, firſt ſits the clerk, by reaſon of his office, who preſides over the King's ſcribe.

(*g*) R. B. for *ſometimes*, is *either* repeated five times over in this ſentence.

(*b*) R. B. mixed.

What

What belongs to the clerk who preſides over the ſcribe.

IT is this perſon's duty to provide proper writers for regiſtering the chancellor's roll, and the King's writs, made out at the exchequer, as alſo the ſummonces, and to ſee they are well done; which duties, though expreſſed in few words, can ſcarcely be done with the moſt infinite labour; which thoſe are well acquainted with, who have learned theſe ~~very~~ things by experience. So you have the offices of thoſe diſpoſed of in the ſecond form.

What belongs to the archdeacon of Poictiers, now biſhop of Wincheſter.

S. IF I remember rightly, the biſhop of Wincheſter ſits firſt on the preſident's right hand (*a*), whoſe office in the exchequer I am deſirous of having immediately and expeditiouſly explained; for it is a great poſt, and ought not to be enjoyed but by perſonages of great rank and merit.

M. It is doubtleſs a great poſt, and the attention requiſite on things of ſuch conſequence occaſions much diviſion to the mind, as is more fully ſhewn in the three column book. But this officer at the time of his (*b*) promotion, when in an inferior ſituation in the King's court, was thought neceſſary to tranſact the King's buſineſs, from his integrity and induſtry, and his being very diligent and careful in the accompts, as well as in writing the rolls and writs. Whence he had a poſt given him on the treaſurer's ſide, that he might ſuperintend, together with the treaſurer, the writing of the rolls and all ſuch ſort of things. The treaſurer indeed is divided by ſo many, and ſo great cares and anxieties in every reſpect, that he may ſometimes be allowed to nod over ſo great an undertaking; but in human tranſactions there is ſcarce any thing altogether perfect.

S. What is it you ſay? for I know not what you mean by the three column book.

M. It is a little book publiſhed by me when I was a young man, of the tripartite hiſtory of England, under the illuſtrious Henry the ſecond, King of England; which, as I divided throughout into three columns, I called it the three column book. The firſt treats of the many tranſ-

(*a*) R. B. for *whoſe* is a blank.

(*b*) B. B. adminiſtration.

actions of the church of England, and of ſome reſcripts of the apoſtolical ſeat; the ſecond of remarkable exploits of the aforeſaid King, which exceed all human credibility; the third of many affairs, as well public as domeſtick; as alſo the judgments of the court. If this ſhould happen to fall into your hands, let it not eſcape your notice, for it may prove of uſe to poſterity, and agreeable to the preſent age; eſpecially to thoſe who are anxious to know the condition of the kingdom under the aforeſaid prince. For this prince, tho' ſprung from an anceſtry of Kings, and had extended his dominions through vaſt tracts of land by a triumphal victory, yet he was greater ſtill in excelling even his juſt title to fame by deeds worthy the higheſt repute. So much for theſe things; now let us proceed in the buſineſs we ſet out on.

S. Be it ſo (*a*), if it is your pleaſure. With due ſubmiſſion therefore to the treaſurer, this perſon ſeems to derogate from his dignity, ſince every thing is not entruſted to his integrity alone.

M. As his dignity is leſſened, ſo is his fatigue, and an indemnity provided for that which is not entruſted to him himſelf, or to another; ſo many, and ſo conſiderable perſons attend at the exchequer; but the reaſon is (*b*), becauſe many perſons, and thoſe of conſequence too, ſhould be appointed to tranſact the weighty affairs and buſineſs of the kingdom under ſo great a prince; but yet, not to take care of the intereſt only, but alſo the pre-eminence and honour of the King.

S. Proceed, if you pleaſe, in the offices.

What belongs to the treaſurer.

THE duty of the treaſurer, or his care or diligence, can ſcarcely be explained by words, tho' I had the pen of the (*c*) readieſt writer; for his indefatigable application is neceſſary in every thing that is carried on, either in the inferior or ſuperior exchequer. Yet, from what has already been ſaid, it may in a great meaſure appear in what his chiefeſt care conſiſts, ſo that he cannot by any means be taken off from them as long as the exchequer remains; namely, in receiving the

(*a*) R. B. ſince.

(*b*) B. B. becauſe it behoves the great men to take care of the weighty concerns and buſineſs of the kingdom under ſo great a prince.

(*c*) R. B. ſcribe.

ſheriffs accompts, and in writing the roll. For he provides words according to the nature of the buſineſs in writing his roll, by whom afterwards that ſame is taken from the other rolls, as I ſaid above; and he muſt have ſpecial care that there be no miſtake, either in the number in the cauſe, or in the perſon, leſt he who has not got his quietus ſhould be diſcharged, or he who ought to be diſcharged ſhould be ſummoned again. For the authority of that roll is ſo great, that no one dares either to contradict or alter it, unleſs there happens to be ſo groſs a miſtake in it that it is apparent to every body; neither ſhould it then be altered unleſs by the general advice of all the barons, after its having continued 'till they all meet at the exchequer on an appointed day (*a*): but no one has it in his power to alter the written roll after a year, or even of a ſubſiſting year after the cloſe of the exchequer (*b*), except the King, who may always do in theſe circumſtances what he thinks proper. It is alſo his duty to aſſiſt in all tranſactions of conſequence with the ſuperior officers, and nothing is concealed from him.

What belongs to the treaſurer's clerk.

IT is the duty of the clerk who ſits next, to prepare the rolls for writing from the ſheep ſkins for the treaſurer, yet not without there is occaſion. They are about as long as two rolls tacked together, not of any ſort but large ones carefully provided for this purpoſe, but ſomewhat broader than one and an half ſpread open. The rolls therefore being ruled from the top almoſt to the bottom, and on each ſide, the county and bailiwick of which the accompt is afterwards given, are (*c*) prefixed in lines of equal diſtance from each other at the top of the roll: after having made a ſpace of the breadth of about three or four fingers, the name of the county which is firſt to be treated of is prefixed in the middle of the line. Then the name of the ſheriff at the head of the following line in this form of words; "Such or ſuch a ſheriff's accompts for the ferme of ſuch or ſuch "a county;" then a little lower, in the ſame line, is wrote, "In the

(*a*) B. B. day *omitted.*
(*b*) R. B. except *omiteed.*
(*c*) B. B. numbered in.

" treaſury;" nor is any thing elſe added unleſs after the accompt is perfected, upon ſome urgent occaſion, which will evidently appear in treating of the ſheriff's accompts. Then what is laid out of the ferme of the county in alms and eſtabliſhed tythes, as alſo in livery, is taken notice of at the head of the following line. After this, what the King's bounty has beſtowed on the churches is taken notice of in the *terræ datæ*, or lands granted away, at the head of the under line, or thoſe which have ſerved them in his farms appropriated to the crown; ſome in blank and ſome by tale.

S. I do not rightly underſtand your ſaying, that ſome farms or eſtates pay in blank and ſome by tale.

M. Let us for the preſent proceed in explaining the clerk's duty, and, if you pleaſe, aſk me this queſtion when we are diſcourſing of the ſheriff's accompts. Next to the *terræ datæ*, or lands granted away, the ſpace of one line being made, that they may appear ſelf-evidently to be ſeparated, thoſe expences which are ordered to be made out of the ferme by the King's writ are taken notice of, becauſe theſe are not fixed, but caſual, and ſome which are accompted for without writs by the courſe of the exchequer, of which I ſhall ſpeak hereafter; and thus is the accompt of the body of the county compleated. After a ſpace of about ſix or ſeven lines is the accompt of the purpreſtures and eſcheats in theſe words: " The ſame ſheriff accompts for the ferme of the purpreſ-" tures and eſcheats, as alſo of all the fermes of the manors, and of the " revenue of woods, which are annually due and paid." After this the accompts are ſorted in their order, except ſome cities, villages and bailiwicks, whoſe accompts are greater, becauſe they have eſtabliſhed alms or liveries, and *terræ datæ*, or lands granted away; and proper ſummonces are directed to thoſe in whoſe hands (*a*) ſuch lands are. But the accompts concerning theſe are made up after the accompt of the counties, they are in, are entirely compleated; ſuch as Lincoln, Winchester, Berkhamſtead, Colcheſter, and many others.

(*a*) R. B. ſuch lands *omitted*.

S. I cannot account for your ſaying, that ſome eſtabliſhed rents are called fermes and ſome revenues.

M. They are ferme of manors, but revenue only of woods. For the produce of manors, becauſe they are renewed and return every year by the means of agriculture, and beſides this, the eſtabliſhed revenue in theſe are certain by the invariable law of cuſtom, are juſtly called (*a*) firm and immoveable; but the produce of woods, which are daily cut down and periſh, are due by an annual law, whoſe profits are not ſo firm or immoveable; but there are ups and downs in them, tho' not annual, yet are frequently called revenue, and ſo they ſay theſe ſhould be eſteemed revenue by (*b*) aphœriſis; but ſome are of opinion, that what is paid by individuals is called revenue, and what ariſes from them is called ferme. That ferme is a collective name, as *multitude:* upon this account therefore, as is believed, it ſignifies annual, and is not intended to be ferme. After theſe which are eſtabliſhed, another ſpace being made, is the accompt of debts, for which the ſheriff is ſummoned; the names of thoſe judges before whom theſe matters are carried on, being prefixed; and laſtly, of the chattels of fugitives and maimed perſons for their departures. And theſe being compleated, the accompt of that ſheriff is finiſhed: but the clerk muſt take care not to write any thing in the roll out of his own head, but only what ſhall be dictated to him by the treaſurer. If he ſhall happen through negligence, or any other misfortune, to make a miſtake in writing the roll, either in the name, figure or cauſe, in which conſiſts the greateſt authority of the writing, he muſt not preſume to raſe it out, but must cancel it, by drawing a fine line under it, and proceed by writing what ought to be wrote. For the writing of the roll (*c*) has this in common with charters and other patents which ſhould not be raſed; and therefore care muſt be taken that they be made of ſheep ſkin, becauſe it does not eaſily admit of a raſure without an apparent blemiſh.

S. Does the clerk provide rolls out of his own pocket, or has he them from the treaſurer?

(*a*) I apprehend the famous author miſtakingly hints, that ferme is ſo called from *firmitas*.

(*b*) B. B. affereſis.

(*c*) B. B. is the ſame as.

M. He

M. He receives five ſhillings from the treaſury in Michaelmas-term, and the writer of the chancellor's roll likewiſe five, out of which they provide parchment for both rolls, as alſo for the ſummonces and receipts of the under exchequer.

What belongs to the writer of the chancellor's roll.

CARE, the fatigue of ſtudy, which belongs to the other writer, who ſits on his ſide, chiefly conſiſts in theſe particulars; to except from the other roll word for word, keeping the ſame order as I mentioned above. It is likewiſe this officer's duty to write the writs which iſſue out of the treaſury, only of thoſe things which ſhould be delivered by the treaſurer and chamberlains, with the advice of the barons at the ſitting of the exchequer: yet this officer writes the King's writs for accompting for, or pardoning, thoſe debts which the barons have decreed ſhould be accompted for or pardoned. It likewiſe belongs to this officer, after the ſheriff's accompts are compleated, and the King's debts rated, for which ſummonces were made out, to write the ſame with the utmoſt care, pains and diſcretion, to be ſent through the whole kingdom, for which, and upon whoſe account, the exchequer of the next term meets.

CHAP. VI.

The tenor of the King's writs made out at the exchequer, or the buſineſs of the treaſury, whether of accompting or pardoning.

S. UNDER what form of words are the King's writs made and iſſued out from the treaſury?

M. The treaſurer and chamberlains lay out no money received without the King's, or the preſiding juſticier's expreſs command, for they ought to have the authority of the King's letter for diſtributing money when a general accompt is required of them; but this is the tenor, "H. King, &c. to "N. the treaſurer, and ſuch and ſuch an one, chamberlains, greeting. "Deliver out of my (*a*) treaſury to ſuch or ſuch a perſon, ſuch or ſuch "a ſum. Witneſs theſe preſents at N. To the exchequer." "To the

(*a*) B. B. our.

"exchequer".

" exchequer" is added, that ſo the writs may be diſcretionary which are made out in the King's court. The ſame writer ſhould make out his letter when a writ is iſſued from the treaſury, as I ſaid, which is commonly called a counter-writ, and the chancellor's clerk ſhould keep it by him as an evidence of the delivery made by the King's original writ, which the treaſurer and chamberlains have. The writs alſo for accompting, or pardoning, what the barons ſhall decree to be accompted for or pardoned; the lord the King's will being firſt known, are made out under this form of words: " H. by the grace of God, &c. to the " barons of the exchequer (*a*) greeting, accompt with ſuch or ſuch an " one, for ſuch or ſuch a ſum of money, which he has delivered for this " or that, my buſineſs. Witneſs theſe preſents there at the exchequer." " And the King to the barons of the exchequer, greeting, pardon ſuch a " one, or I diſcharge ſuch a one of ſuch or ſuch matter. Witneſs " theſe preſents there at the exchequer." But copies of all theſe writs remain with the afore-mentioned clerk, as evidence of the writs being made out for the original writs of what is accompted for or pardoned, are included in the ſheriff's compleated accompts in the marſhal's forules, never more to be taken out unleſs ſome diſpute happens about them. But what I have ſaid concerning the King's writs, is in like manner to be underſtood of the preſiding juſticier (*b*), only when the King is abſent, and when the laws of the kingdom are put in execution by the impreſſion of his ſeal, and caſes are cited to condemn or diſcharge thoſe who are ſummoned to the court; but while the King is in the kingdom of England, the writs of the exchequer are made out in the King's name, atteſted by the ſame preſident and ſome other great perſonage: but as to the tenor of thoſe writs which are called ſummonces, I ſhall ſpeak more fully under the title of ſummonces.

(*a*) R. B. at the exchequer.

(*b*) The writs were very often made out in the name of the chief juſticier during the King's reſidence abroad. For example, Pagan de Mundublel owes eighteen pounds and thirteen ſhillings and four pence for knights, but it ought to be demanded by the Earl of Leiceſter's writ, [chief juſticier]; by the King's writ of beyond ſea, by Earl of St. Patrick and Godfrey de Ver, who have knights. Great roll. 13 H. 2. roll. 2. a. tit. Berkſhire. Other inſtances whereof are to be met with in Mad. hiſt. of exch.

What

What belongs to the chancellor's clerk.

THE chancellor's clerk, who is next to this officer, tho' he acts not in his own, but in another's name, is, however, concerned in affairs of conſequence, and meets with many perplexities, inſomuch that he cannot be ſpared from the very beginning of the accompts even to the end of them, unleſs by chance, when he takes his pleaſure, (*a*) he appoints in the interim a diſcreet deputy; but this officer has the chief care next to the treaſurer of all the affairs which are tranſacted there, eſpecially of writing the rolls and writs, for in theſe conſiſts his chief buſineſs; he ſuperintends leſt his writer's pen ſhould make a miſtake, while he has an equal eye over others. This officer alſo carefully inſpects the roll of another year, which is laid before him for that purpoſe, until the ſheriff hath ſatisfied him of thoſe debts which are entered upon it, and concerning which he was ſummoned. Alſo upon the ſheriff's attending to accompt, after having computed and reduced to writing thoſe things which are eſtabliſhed in the county, he takes the writ of ſummons from the ſheriff, to which is affixed the King's ſeal, and preſſes the ſheriff for payment of thoſe debts which are there tranſcribed, publickly proclaiming them in theſe words: "Pay ſo much "upon this accompt, and ſo much upon that;" and the ſame clerk cancels, by drawing a line thro' thoſe debts, from which he is abſolutely diſcharged, and for which ſatisfaction has been made; that by this means there may be a diſtinction made between thoſe which are paid, and thoſe which are to be paid. He alſo has the cuſtody of the counter-writs made out at the exchequer. He likewiſe corrects and ſeals the ſummonces that are made out, as I ſaid before; and he has an infinite deal of trouble, and the greateſt next to the treaſurer.

S. Argus would be of more uſe here than Polyphemus.

What belongs to the conſtable's clerk.

THE conſtable's clerk is a perſon of conſequence and buſineſs in the King's court, and is alſo admitted at the exchequer to all matters of moment, together with the great officers, and the King's affairs are tranſacted with his aſſent; but he is appointed by the King to attend in term time at the exchequer with the counter-writs of thoſe things only

(*a*) B. B. for *when he takes his pleaſure*, is a ſmall blank.

which

which are carried on in the court. He alſo ſuperintends (*a*) with the conſtable the liveries of the officers, or of ſome of them, as I ſaid before, and his office is now and then pretty laborious, tho' explained in few words; but he commonly puts in a ſubſtitute as the chancellor does, wherefore, the Majores cannot go far from the King's preſence. This is the diſtribution of the offices in the ſecond form on the preſident's right-hand.

What belongs to Brun.

MOreover, maſter Thomas Brun (*b*) ſits at the head of the fourth ſeat, which is oppoſite to the juſticier's. His authority in the exchequer is not contemptible; (*c*) for his being choſe by a prince of ſo excellent a judgment, is a very ſtrong argument of his integrity and diſcretion. Beſides, he has contrary to cuſtom, a third roll in which he writes the laws of the kingdom, and the King's ſecrets; and keeping the ſame by him, may carry it where-ever he thinks proper. He likewiſe has his clerk in the under exchequer, who, ſitting next to the treaſurer's clerk, has free liberty to write down what is received and expended in the exchequer.

S. Is his integrity and diſcretion ſo well known to his prince, that no other perſon is eſteemed ſo worthy as himſelf for this buſineſs?

(*a*) R. B. carefully.

(*b*) Maſter Thomas Brun is often mentioned in the great rolls of King Henry the ſecond. One Ralph, maſter, Thomas's nephew, received an annual penſion from the King, in the fifth year of that King; and ſix pounds and twenty pence to Ralph, Thomas Brun's nephew, in ſettled livery. Great roll, 5 H. 2. Roll. 7. b. Herefordſhire. Maſter Thomas himſelf enjoyed an annual penſion, granted him by the King, in the fourteenth and twenty-ſecond years. John Conſtable of Cheſter accompts for 600 *l.* for his mother's land; forty-ſeven pounds and thirteen ſhillings and four pence in the treaſury; and nine pounds in payment by the King's writ to maſter Thomas Brun for his livery for a quarter of a year; and ten pounds to Water Vitul for the livery of a ſhip. Great roll, 14 H. 2. Roll. 6. b. Tit. Tichehilla; and ſeventy-ſix ſhillings and an halfpenny for half a year to maſter Thomas Brun. Great roll, 22 H. 2. Roll. 3. b. Herefordſhire in Wales. The ſame maſter Thomas was one of the King's almſmen in the fifteenth year; and ſeven pounds and twelve ſhillings and one penny to maſter Thomas Brun, one of the King's almſmen. Great roll, 15 H. 2. Roll. 10. a. Herefordſhire in Wales. The famous author of the dialogue here affirms, that maſter Thomas diſcharged an office of conſequence at the exchequer; what it was is not known; perhaps, the ſame as was called in proceſs of time, the Chancellorſhip of the exchequer. I only gueſs ſo.

(*c*) R. B. for *omitted*.

M. He was a great man in the court of the renowned King of Sicily, provident in councel, and almoſt the only chief perſon in the King's ſecrets. In the mean time a new King ſprung up, who was unacquainted with him, and having depraved people about him, perſecuted the father in his children. This man therefore was forced to conſider how to get a livelihood, the face of his proſperity being changed, and tho' an acceſs to many kingdoms was open for him, whither he might have gone with the greateſt honour; yet called by the illuſtrious Henry, King of England (whereas fame itſelf is inferior to truth) he choſe rather to remain in his native ſoil, and with the ſucceſſor, his extraordinary lord and maſter. Being therefore received by him, as it behoved them both to have done, becauſe he ſuperintended the weighty concerns of the Sicilian monarch; here likewiſe, he was appointed to manage the important buſineſs of the exchequer; thus therefore, he obtained the place and office of his dignity. He is likewiſe concerned, together with the great officers, in carrying on all the important buſineſs of the exchequer. Thus you have the diſtinct duties of all thoſe who ſit at the upper exchequer, by reaſon of their offices. It is of courſe, if I am not miſtaken, to proceed in the inquiry, of what are their dignities, by reaſon of their ſeat at the exchequer.

S. Yes, if you pleaſe, you are to treat of the duty of an officer you call the caſhier, as alſo of the melter's duty, becauſe as they ſeemed connected one with the other, and to belong to the upper exchequer, they were hitherto defered.

M. I find you have not forgot my promiſe, from which I reſt aſſured, that what I have been ſaying to you will not eſcape your remembrance. I thought, indeed, you had been ſatisfied with my account of the offices, becauſe I have omitted no one who has a ſeat in the exchequer; for thoſe whom you mention have no certain appointed ſeats; nay, they are put into their offices at the pleaſure of the preſident or treaſurer.

What

What belongs to the caſhier.

FUrthermore, the caſhier carries his coffer of ſilver from the under exchequer to the upper to be examined, as we have mentioned before; which, when he has brought in, ſealed with the ſheriff's ſeal, he puts out in the preſence of all in the exchequer forty-four ſhillings, which he ſealed before when he took them from the heap; and making a mixture of the ſame, that they may be full weight, he puts a pound weight in one balance of the ſcale, and in the other as much money as is neceſſary; which being done he tells it, that it may appear from the number whether it be lawful weight or not; but of whatever weight it is, he puts one pound into a bowl, that is twenty ſhillings, of which the trial was made, but the remaining twenty-four ſhillings he puts into the coffer. Two pence beſides the pound to be examined is given to the melter, not out of the treaſury, but by the ſheriff as a preſent for his trouble. Then two other ſheriffs are choſen by the preſident, or treaſurer, if the preſident is abſent that they may proceed to the fire together with the caſhier and ſheriff, whoſe examination is to be made; where the melter having notice before, waits their coming with every thing neceſſary. They are (*a*) there again told carefully over and delivered to be melted, in the preſence of the melter and thoſe whom the barons ſend.

What belongs to the melter.

WHICH he taking with his own hands tells over, and puts them in a veſſel of red-hot cinders that is in the furnace: and then according to the melter's art reduces them into a maſs, forging and purifying the ſilver. He muſt take care that nothing but what is pure be left, nor to damage or conſume it by too much burning, becauſe of the King's and the ſheriff's loſs thereby; but muſt be careful in every reſpect, and prevent as much as he can the damaging it, by over-boiling: but thoſe who are ſent for the ſame purpoſe by the majores ought

(*a*) R. B. there *omitted*.

to take care of that. The examination therefore being made, the caſhier carries it to the barons, the reſt attending him, and then weighs it with the aforeſaid pound weight before them all: but he preſently ſupplies what the fire waſted of the money out of the coffer until the examination balances the weight. Then is wrote on the top of the examination with a piece of chalk, this word, EVERWICSCIRA. A pound burns ſo much or ſo much money, and then it is called an Aſſay; for it is not wrote upon 'till leave is given that it ſhould ſtand ſo. If the ſheriff whoſe it is, ſhould falſely alledge that it is waſted more than it ought to be, that is, by the burning in the fire, or infuſion of lead; or the melter himſelf, confeſs that the examination is deficient, whatever reaſon he gives for it, the twenty ſhillings are told over again that remain in the aforeſaid coffer before the barons, as has been obſerved, that the examination may be done in the ſame method. Hence it may appear to you, why forty-four ſhillings of the money, taken from the great heap, are at firſt put ſeparately into the coffer with the ſheriff's ſeal. You muſt obſerve, that the melter has two pence for the examination, as I ſaid. If there ſhould happen to be another made, or even a third, he has nothing more, but ſhall be ſatisfied with having once had two pence.

S. I am ſurprized that ſuch great perſons ſhould be ſo diligent in the examination of one pound, when neither great gain nor much loſs can come of it.

M. This is not done only for this, but for all thoſe which are paid by the ſame ſheriff under the ſame name of ferme together with this. For as much as he diminiſhes from this pound by the purgative fire, the ſheriff will know that ſo much is to be taken off every other pound from his ſum; as for example, if he pays one hundred numbered pounds, and the pound of the examination ſhall fall ſhort by twelve pence, he ſhall be charged with ninety-five only.

S. Now I think the profits of this cannot be ſmall, but who is intitled to them I know not.

M. I have now ſaid, and it is always to be underſtood, that all theſe are ſolely for the King's advantage. But tho' the combuſtion is taken from

from the ſheriffs tally, yet it is put ſeparately on another ſhorter one, that the treaſurer and chamberlains may anſwer his ſum. But you muſt know that the ſheriff's ferme is blanched by this tally of combuſtion; whence it is always fixed to the greater tally as an evidence of it.

S. I am ſtill at a loſs in a queſtion not unlike that, which you remember I put to you, when you was treating of the under exchequer; why one pound ſhould determine more than another, ſince the quality of every thing made uſe of in coin ſhould be equal.

M. It is ſufficient to anſwer you this queſtion as I did that, this might be done by falſe coiners and clippers of money. But ſome were of opinion, from whom neither do I differ, that it could not be lawful coin of this kingdom, if an examined pound (*a*) ſhould be allowed to want more than ſix pieces of weight, which the numbered anſwers; and money of this ſort brought to the exchequer ought to ſubmit to the treaſury, unleſs it be new and unuſual money, the ſuperſcription of which would betray (*b*) it's maker; for then the ſame coiner would be ſtrictly ſummoned for his own work, and condemned or diſcharged by fixed laws, without any loſs to the ſheriff. If the coiner is to be condemned and puniſhed by the examination of good and bad money, it is reduced into a maſs by the melter of the exchequer, others ſkilful in this art being preſent, and it's weight (*c*) [is placed to the ſheriff's accompt. But all this is now almoſt aboliſhed and much diſuſed, as crimes againſt the coin are committed by mankind in general;] but when coin is arrived to the due mean to be determined by law, it is neceſſary that the firſt eſtabliſhed law ſhould be obſerved (*d*). On the contrary,

(*a*) R. B. pound *omitted*.
(*b*) B. B. prove.
(*c*) This clauſe beginning with *is placed*, and ending with *in general is guilty*, is *omitted* in R. B.
(*d*) R. B. *has here* this clauſe. But all this is now almoſt aboliſhed and much diſuſed, as crimes againſt the coin are committed by mankind in general.

if

if any ſheriff brought money, a pound of which after it was melted down wanted five or four pieces, or leſs, and ſhould appear as newly coined, not uſual, or current, they were looked upon as unlawful, as if they happened to exceed the common ſtandard, whereupon they were forfeited in the ſame manner as others. There are alſo at the exchequer ſettled liveries which are paid at the appointed times without the King's writ; ſuch is the livery of the mariner, who has the cuſtody of the King's ſhip which is called (*e*) *Eſnecca*, who has twelve pieces every day; for which and the like tallies are made out by the chamberlains, becauſe they have not writs for them. But the caſhier has foils, that is, countertallies. He and the melter, being defired by the chamberlains, when it is neceſſary, there being much money brought in, which occaſions the buſineſs to lie heavy on the tellers, aſſiſt them in the accompt: but they do it of their own accord, not by compulſion. Thus you have the offices of the caſhier and melter.

S. What are the diſtinctions between a compleat and an incompleat examination.

M. I do not know; becauſe I have made no inquiry about it. But as long as one can perceive that the liquid ſilver has a particular ſmall black cloud round it, it is ſaid to be incompleat, but when ſome minute grains are drawn to the top, and there diſſolved, it diſtinguiſhes it to be compleat.

(*e*) For example: the farmer of the town of Hampton, in the twelfth year of King Henry the ſecond, had the following expences deducted out of the accompt given at the exchequer; and in the like manner, the farmer of that town in the twenty-ſecond year of the ſame King, who accompted for that year ſeven pounds and ten ſhillings for the livery of a ſhip when the King went over ſea in lent; and ſeven pounds and ten ſhillings by the King's writ for the King of Scotland's paſſage: and ten pounds for a ſhip, and two other ſhips for the paſſage of lord Godfrey, the King's ſon. Great roll, 12 H. 2. Roll. 8. b. tit. Hampton. And alſo ſeven pounds and ten ſhillings by the King's writ for the livery of a ſhip when the King's daughter went over ſea, in her voyage to Sicily; and ten pounds and twelve ſhillings by the King's writ, for the livery of ſeven ſhips that ſailed with her. Great roll, 22 H. 2. Roll. 13. b. tit. Hampton. Beſides the biſhop of Ely's ſhip was called his *Eſnecca*; and twenty-ſix ſhillings by the ſame writ for the repair of the biſhop's Eſnecea, [that is of Ely.] Great roll, 19 H. 2. Roll. 4. b. in the accompt of the vacant biſhoprick of Ely.

CHAP.

CHAP. VII.

By whom, or wherefore the examination of the ſilver was inſtituted.

S. BY whom, or for what reaſon, was this examination or combuſtion inſtituted?

M. In order to make it appear to you, I muſt aſcend a little higher. As we are told by our anceſtors, in the primitive ſtate of the kingdom after the conqueſt, gold or ſilver was not paid to Kings for their farms, but only victuals; by which the King's houſhold was furniſhed with neceſſaries for daily uſe. And thoſe, who were appointed to collect it, knew how much each farm produced. But numbered money was introduced for the ſoldiers pay, or donatives, and other neceſſaries, for the pleas, and conventions of the kingdom, and from thoſe cities and towns which exerciſed no agriculture. This cuſtom therefore continued during the whole reign of William the firſt, to the reign of King Henry, his ſon; ſo that I myſelf have ſeen ſome, who have been carrying victuals at the appointed times to court from the King's farms: and the officers of the King's houſhold certainly knew which counties paid wheat, which divers ſorts of fleſh, or provender for horſes, or what neceſſaries. But the King's officers, after theſe were paid according to the ſettled method of each commodity, reduced it into a ſum of money in order to accompt with the ſheriffs: namely, for a meaſure of wheat for bread for an hundred men one ſhilling; for an ox which had been at paſture one ſhilling; for a ram, or a ſheep, four pence; for the feeding of twenty horſes four pence. But in ſucceeding times, when the ſame King was doing his utmoſt in remote parts beyond ſea, to quell the rebellious inſurrections, a ſum of numbered money was obliged to be raiſed towards compleating this project. In the mean time vaſt multitudes of huſbandmen flocked to the King's court, making heavy complaints, and that they might appear more ſo, they frequently met him with their plow-ſhares, in token of the deficiency of agriculture, from the innumerable troubles occaſioned by the victuals, which they carried from their own homes to many parts of the kingdom. The King therefore moved with their complaints, appointed by the definite advice of the Great throughout the kingdom, thoſe whom he knew were moſt prudent and diſcreet for this purpoſe, who by ſurveying, and being

ing eye-witneſſes of the condition of each farm, and eſtimating the victuals, might reduce into a groſs ſum of money, what was paid in theſe commodities. But they ordered the ſheriff of that county to be liable to the exchequer, for the ſums of money which were raiſed from all farms in one county, adding that he ſhould pay *ad ſcalam*, that is ſix pence for every numbered pound. For they thought that by length of time it might eaſily happen that the coin then good might alter. This opinion deceived them; whence they were obliged to order that the ferme of manors ſhould be paid not only *ad ſcalam* but *ad penſum*, which was making good the deficiency of weight tho' it was more than ſix pence in the pound, which could not be brought to bear without many difficulties. The method of this payment at the exchequer was in force for many years: whence you will often find entered on the ancient annual rolls of that King in the treaſury one hundred pounds *ad ſcalam*, or in the treaſury one hundred pounds *ad penſum*. In the mean while ſprung up a prudent man, provident in councel, of diſcreet converſation, and ſoon the apteſt by the grace of God, for all ſorts of weighty affairs, ſaying, That is fulfilled which is written, the "grace of the "holy ſpirit is unacquainted with tardy endeavours." This perſon being ſummoned by the ſame King to his court, (tho' unknown, however not ignoble) taught by his example,

How happy men were indifferently rich!

He therefore, increaſing in favour with the prince, clergy, and people, was made biſhop of Saliſbury, and enjoyed the greateſt honours in the kingdom, and was well verſed in the knowledge of the exchequer; ſo that there is no doubt, but on the contrary, it is evident from the rolls themſelves, that it was in a very flouriſhing condition in his time, to whoſe leavings I alſo am in ſome meaſure indebted, for what I have been delivering to you. At preſent I forbear ſpeaking more on this ſubject, ſince he has left behind him an excellent character, particularly with regard to the diſcharge of his duty in this office. He afterwards came to the exchequer by the King's command; where, when he had reſided ſome years, he found out that the treaſury had not juſtice done by this method of payment: for tho' there was no appearance of it's having injuſtice done it, in reſpect of number or weight, yet there was in reality. For it did not follow, that if he paid twenty numbered

numbered ſhillings for one pound, which anſwered the weight of one pound, that he had of courſe paid a ſilver pound: for he might have paid it mixed with copper or ſome other metal, if no examination was made of it (*a*). That he might therefore ſecure the King's, as well as the public intereſt, having the King's opinion upon the matter, it was ordered, that there ſhould be a combuſtion (*b*), or examination of the ferme, in the manner above-mentioned.

S. How does this ſecure the public intereſt?

M. For the ſheriff thinking himſelf aggrieved by the combuſtion of the worſe ſort of money, when he is to pay ferme he takes care to prevent the coiners appointed under him (*c*) exceeding the eſtabliſhed rules; whom, when he diſcovers in ſo doing, he puniſhes them in ſuch a manner, as to terrify others by their example.

S. What ſhould every county pay in blank ferme, or ought an examination to be made in every county (*d*)?

(*a*) The famous author ſeems to hint here, that the combuſtion was either invented, or firſt made uſe of by Roger, biſhop of Saliſbury, chief juſtice, and preſident of the exchequer. But it appears that it was in uſe before Roger's time, from the book of Domeſday, a record of indiſputable authority, in which the pound burnt, and to be burnt, is mentioned over and over again. For example, the burough of Hertford: this ſuburb pays twenty pounds burnt and weighed; and three mills yield ten pounds by tale. When Peter the ſheriff received, he paid fifteen pounds by tale; T. R. E. ſeven pounds and ten ſhillings by tale. Book of Domeſday, fol. 132. tit. Herefordſhire. Judhel's land of Totenais: Judhel holds the burgh of Totenais of the King, which King Edward held in his demeſne. There are ninety-five burgeſſes within the burgh, and fifteen without the burgh, who till the land, they pay eight pounds by tale among them all. Formerly they paid three pounds by weight and arſure, or burning. Book of Domeſday, tit. Devonſhire, fol. 108. b. col. 1. [Sulfreton] pays forty pounds by weight and arſure. [Teinton] pays thirteen pounds by weight, and ten ſhillings by tale. [Alſeminſtre] pays twenty-ſix pounds by weight and arſure. Ibid. fol. 100. a. col. 2. tit. Devonſhire. [Wacheton] pays three pounds by weight. [Sutton] pays twenty ſhillings by weight. [Ermenton] pays thirteen pounds and ten ſhillings by weight and arſure. Ibid. fol. 100. b. col. 1. ſame tit. [Blachepole] is of the value of twenty ſhillings by weight and arſure. [Morton] pays twelve pounds by weight and arſure. Ibid. fol. 101. a. col. 1. ſame tit. And ſee Spelman's Gloſs. at the word *libra*. p. 366. col. 2. But let us ſee whether this doubt cannot be removed in this manner. Perhaps Roger, the biſhop, either found or introduced the nominal combuſtion which is mentioned in Madox's hiſt. exch. c. 9. §. 2. Suppoſe the payment of ſurpluſage money inſtead of combuſtion.

(*b*) R. B. or examination *omitted*.

(*c*) For example; Robert of the vallies [ſheriff of Cumberland] owes one hundred marks, for many diſſeiſins: and acknowledging that the priſoners eſcaped out of his cuſtody, and for taking when he was ſheriff, the current old money, after a general prohibition. Great roll, 1 Rich. 1. roll, 8. tit. Cumberland.

(*d*) R. B. in every county *omitted*.

M. No; but thoſe which are appropriated to the royal crown by virtue of an ancient right pay in this manner. But thoſe which are occaſionally forfeited, make ſatisfaction by tale only; ſuch as Salop, Suſſex, Northumberland, and Cumberland. The ſheriff is likewiſe at liberty to pay pounds of examined ſilver for blank ferme; and ſo avoid the loſs of the combuſtion; but ſo that the King's melter may determine whether they ought to be accepted of. You have then what you deſired, that is, by whom, and wherefore, the examination was inſtituted.

S. (*e*) I find by this that what is written is literally fulfilled: the fire ſhall try the nature of every one's work. But now, if you pleaſe, proceed in what you began with.

M. I will. I believe according to the order of our intended method, we muſt of courſe proceed to inquire what honours thoſe have who ſit at the exchequer by their office, or by the King's command.

S. I am much at a loſs to find out the reaſon of your having either wilfully ſuppreſſed, or negligently omitted the uſher of the upper exchequer and his office, when you was giving me an account of the offices.

M. I am obliged to you for reminding me of it; for a maſter acquires honour from the proficiency of his ſcholar. I told you that the juſt now mentioned uſher received a livery with the reſt of the officers; and therefore you very properly aſk what his office is.

(*e*) R. B. you find.

What

What belongs to the uſher of the upper exchequer.

THE uſher alone, without any companion, takes care of the door of that apartment, in which the exchequer is kept; unleſs he takes ſervants from his own houſe to eaſe him of his attendance. Yet the ſame perſon has the cuſtody of the council-chamber, which is ſituated near the apartments of the exchequer. The barons meet here, when any doubtful matter is propoſed to them at the exchequer; which they chooſe rather to debate a part, than in the hearing of every one; but their chief reaſon for retiring hither, is, that they may not hinder the accompts from being proceeded in, which are gone through at the exchequer, their adviſing occaſioning delay; the accompts are carried on in the uſual method. But if any doubt or queſtion ariſes it muſt be referred to them. The uſher may likewiſe, without fear of puniſhment, ſhut out, whenever he pleaſes, any perſons of whatever dignity they are, if not concerned in the buſineſs then in hand. A free admiſſion into both chambers is granted only to thoſe who attend at the exchequer, by reaſon of their office, or the King's command. If they are perſons of authority, whom it is not particularly proper to admit, one or two may be introduced into the outer apartments of the exchequer, but the majores only are allowed to enter the council-chamber; the reſt are excluded, unleſs when called upon by their lords and maſters to tranſact ſome of the King's buſineſs. The uſher alſo receives the ſummonces made out and ſigned by the marſhal; the exchequer of that term being over, he carries them himſelf, or ſends them by ſome truſty meſſenger, throughout England, as was mentioned above. He likewiſe by the preſident's command, ſummons before him the ſheriffs, who are diſperſed in all parts, when he has occaſion for them. It is alſo this officer's duty, to be careful about ſome minute neceſſaries, which are to be done in the exchequer-chamber; as ſpreading and preparing the ſeats round the exchequer, and ſuch-like. I preſume, from what I have ſaid, that you comprehend the offices of all thoſe who attend at the exchequer. Now I will point out to you their rights or dignities, by reaſon of their attendance at the exchequer.

CHAP. VIII.

What the rights and dignities of thoſe are who ſit at the exchequer, by reaſon of their attendance.

I MUST deſire the ſlanderer's tongue ſtill to continue favourable to me, and that envy would not tear me to pieces; for you would ſcarcely have comprehended any of theſe things, had I not thought it neceſſary to inſiſt on the uſual expreſſions of things, as well as an exquiſite method of words, or made up names.

S. I adviſed you from the beginning to avoid novelty of words, and obtained your promiſe of making uſe of common, and uſual ones, about common topicks, leſt an unuſual novelty ſhould confound the inſtructing rudiments. I therefore deſire you will finiſh, as you have begun. If the ſlanderer's envious mind, or tongue, ſhould find you thus proceeding, you will have this advantage from it, that he who is without fault in his writings, may throw the firſt ſtone at you.

M. I will obey of my own accord, as long as you keep up to that rule. The dignity of thoſe who attend at the exchequer conſiſts in many things. For thoſe who attend by command, whether they be of the clergy, or of the King's court, cannot be ſummoned to attend any other cauſes, under whatever judges they be, from the day on which they were convened, 'till the general ceſſation; and if they ſhould happen to be ſummoned they will be excuſed, by reaſon of their public office. But if thoſe who attend are plaintiffs and not defendants, and have other law-ſuits, it is left to their pleaſure, either to try them by an attorney, or defer the day, without any loſs or detriment to their right. But if the judge before whom the cauſe is argued, whether he be an eccleſiaſtical or temporal judge, who is ignorant of this rule, ſhall cite any of them, from the above-mentioned day of meeting at the exchequer, and ſhall happen to deprive him, by his ſentence, of his poſſeſſion, or any other right, his cauſe ſhall be re-called to that ſituation, in which it was before the citation, by the authority of the prince, and his ſeat: but the judge is not to be puniſhed for this, for he has done his duty; tho' it ſhall not take effect by reaſon of his public office. But if he is ſo cited, that the fatal day, appointed by law, fixed for his appearance, precedes the day of meeting at the exchequer, he cannot excuſe himſelf thereby, or avoid the judge's ſentence, or render it ineffectual, tho' the one immediately follows the other. He muſt therefore procure an attorney, or ſome one to be reſponſible for him, and he engaged

gaged in the King's buſineſs muſt haſten to court without any excuſe. Beſides, the barons who ſit at the exchequer, pay no cuſtom for the victuals they buy for their families in town or country, *or at ſea.* If the gatherer of taxes compels them to pay any thing, provided his ſervant is preſent, and offers to prove upon oath, that they were bought for their uſe, the whole money exacted ſhall be returned to the baron, and the diſhoneſt tax-gatherer ſuffer a pecuniary puniſhment, according to the quality of the perſon. And if any nobleman of the kingdom ſhall abuſe with ill language, occaſioned by an ungovernable paſſion, any one ſitting at the exchequer, if the preſident is preſent, he ſhall immediately attone for this exceſs of anger, by ſuffering a pecuniary puniſhment. But in the preſident's abſence, if he altogether reſolutely denies the injury he has done, and the other officers declare, that he did ſay what is laid to his charge, yet the guilty perſon ſhall be immediately fined to the King, whoſe ſervant he was, unleſs he ſhall haſten to prevent the judgment by aſking pardon. If they who ſit at the exchequer diſturb one-another by any contumelious quarrel, and make it up by the interpoſition of other officers of that bench, upon condition, that he who injured the innocent perſon ſhould make him ſatisfaction, as they ſhould think reaſonable; but if he ſhall be unwilling to agree to it, (*a*) and had rather perſevere in his own obſtinacy, it is laid before the preſident, and then he ſhall do juſtice to each party. But if it ſhall happen, that by the devil, the inciter of miſchief, who envies the ſweet happineſs of fraternal peace, that diſſentions ariſe among the Great, and then, there being no ſuperiority, their opprobrious language ſhould encreaſe, egged on by ſatan's helliſh incentives, ſo that peace cannot be reſtored by the other officers of the buſineſs; the knowledge of all this is reſerved for the prince himſelf, who according to that, which God inſpires his heart with, in whoſe hand he himſelf is, puniſhes the offence; that thoſe who preſide may not ſuffer that to go unpuniſhed, which they ſee is puniſhed in others.

S. From this is evident, what Solomon ſays, Death and life are in the hands of the tongue; and alſo James; The tongue is a little member, and boaſteth great things.

(*a*) and had rather perſevere in his own obſtinacy is *omitted* in R. B.

M. (*a*) So it is; but let us proceed in the dignities. Sometimes common aſſizes are held through the counties, by the intinerant juſtices, whom we call deambulatory, or juſtices in eyre; which are called common, becauſe the ſum which is (*b*) demanded of the county, being known is (*c*) commonly divided by hides, by thoſe who have eſtates in the county, that there be no failure, when they come to pay at the exchequer. All thoſe who ſit at the exchequer, by the prince's command, are free from all theſe ſorts of aſſeſments; ſo that none ſhall be demanded, neither for their demeſnes, or their inheritances (*d*). But if any one who ſits there has an eſtate, he ſhall not be free either as to money for ferme, wardſhip, or pledge, but ſhall rather be liable to theſe public laws. Beſides, he ſhall be free at the exchequer from murder, eſcuage, and danegeld (*e*). But he muſt determine what belongs to him of the fixed ſum, and it ſhall be placed to the ſheriff's accompt in theſe words; this or that to ſuch or ſuch an one in pardons by the King's writ, when he has no writ of the King for it.

(*a*) So it is *omitted* in R. B.

(*b*) demanded of the county *omitted* in R. B.

(*c*) commonly *omitted* in R. B.

(*d*) The barons and attendants of the royal exchequer are free by the privilege of their ſeats, from the amerciaments of murder, common aſſizes aſſeſſed on the counties, hundreds, and towns; for defaults, tranſgreſſions, and ſuch ſort of offences. Conſult Mad. hiſt. of exch. about this matter, chap. 20. ſect. 7.

(*e*) For inſtance; the earl of Alberick, biſhop of Lincoln, Earl of Leceiſter, the biſhop of Ely, and the treaſurer, were marked free in the ſecond year of King Henry the ſecond, from ſums aſſeſſed on their lands in Cambridgeſhire, in the name of danegeld, and that if I judge rightly, by privilege of their ſeat; the ſame ſheriff [Pagan] accounts for danegeld thirty-eight pounds and three ſhillings in the treaſury, and eighteen ſhillings to the earl of Albe-rick by the King's writs in pardons, and thirty-ſix ſhillings and ſix pence to the biſhop of Lincoln, and fourteen ſhillings to the earl of Leiceſter, and twenty-nine pounds and ſix pence to the biſhop of Ely, and fourteen ſhillings to the treaſurer; and alſo to others. Great roll, 2 H. 2. Roll. 2. b. Cambridgeſhire. And the biſhop of Ely, treaſurer, the earl of Leiceſter, and Warin, ſon of Gerald, were likewiſe the ſame year entered diſcharged from the ſums aſſeſſed upon them in Cambridgeſhire for aid. And the ſame ſheriff accompts for fifty-three pounds and ſix ſhillings and eight pence for the aid of the county; twenty pounds in payments for William Cade, and twenty-three pounds and eight ſhillings by the King's writs in pardons for the biſhop of Ely, and nine ſhillings and four pence to the treaſurer, and thirteen ſhillings and four pence to the earl of Leiceſter, and ſixteen ſhillings to Warin, ſon of Gerald; and to others. Ibid. near Cambridgeſhire.

But

But he must be cautious whom he forgives any thing, as from the prince, lest the subjects afterwards should desire him to forgive it them, but let him be rather mindful of that expression; "Forgive and you "shall be forgiven;" because, when this shall come to be found out, the prince, an æmulator of the evangelical doctrine, will neither forgive him nor his debt, but perhaps punish him in an hundred times as much; because he has abused the favour done him, in having indecently demanded that of others, which was forgiven him.

S. You said, if I remember rightly, that whoever is employed at the exchequer, by the King's command, he is free from some things determined by law, by reason of his seat. You added also, if I recollect rightly, that the exchequer sat in Easter-term, yet that what was done there then, did not altogether determine it, but that the completion of it was reserved to Michaelmas-term. Whereas it may possibly happen, nay and often does, that some one is called up hither by the King's command in Easter-term, who either dies in Michaelmas-term, or is removed to other business of the kingdom, by the King's command, or what some are of opinion is more likely, being disliked by the prince, in the middle of the two terms, is adjudged unworthy such important business; I ask whether he who is quiet in Easter-term, when few things are determined, but are all renewed by a repeated summonce, should be discharged in Michaelmas-term, when he was intitled to a seat in the exchequer, as also the prince's favour.

M. Perhaps many reasons must be found to make out each part of this question; but know, that the frankness of the royal bounty after forgiveness is once obtained, though it be with the loss of money, is always inclined to act the better part; for the quality of the King's gifts and pardons is the same, that as his gifts should not be revoked or redemanded; in like manner, neither should those things which the King has forgiven, commonly called pardons, be ever made void. He is free therefore and discharged in the term of completion, however deserving he was of being discharged in the preceding one.

S. Some things astonish me that you have said; first, that what is forgiven any one, is forgiven him in this form of words; this or that to such or such an one in pardons, by the King's writ, when yet he has no writ of the King's forgiven him; how it can possibly be, that so falsely written a roll is not found out, I cannot see.

M. Does

M. Does it aſtoniſh you? nor without reaſon; which aſtoniſhed me for ſome time; and (as I believe) the reaſon of this writing is not yet clear to every body's comprehenſion; though what you aſk is not of great conſequence, yet it is unuſual, and ſeems abſurd, that it ſhould be ſaid to be forgiven by the King's writ, when it is always forgiven without writ. Wherefore I was very troubleſome to my lord of Ely upon this very account, the moſt knowing man of this office, and of bleſſed memory. This treaſurer of Henry the firſt, that illuſtrious King of England, and nephew of my lord Saliſbury, whom we mentioned before, had an incomparable knowledge of the exchequer in his time; and being the beſt verſed in thoſe things, which belonged to the dignity of his office, rendered the fame of his name ſo remarkably great, that he was almoſt the only one in the kingdom, who lived and died in ſuch a manner, that the tongue of envy dared not to attempt even to ſully his reputation. He alſo being frequently intreated by his illuſtrious majeſty King Henry the ſecond, reformed the knowledge of the exchequer, almoſt entirely demoliſhed by the wars, which laſted for many years, and entirely renewed the appearance of things, juſt as another Eſdras, who by his diligence recovered the library. This prudent man thought indeed that it would be better for the eſtabliſhed laws to be known to poſterity from the ancient ones, than that new ones ſhould be made, and have effect from his ſilence; for the moderns would hardly dictate milder laws, than the former, for getting in the money. I received this anſwer to my queſtion; Brother, he who has a great inclination to hear every thing, will ſoon find the ſlanderer's tongue; and even he who has not, will not eaſily avoid it. So ſome certain man, hearing the hiſſing of a ſerpent, came to King Henry the firſt, ſaying to him; What! do not your barons, who ſit at the exchequer, pay for the produce of their lands? when ſome have eſtabliſhed liveries at the exchequer for ſitting there; ſome eſtates too, and the profits of them for doing their duty; hence muſt accrue great loſs to the treaſury. When he therefore, alledging the prince's advantage, often urged it, he at laſt with much difficulty, perſuaded him, to order all cuſtoms to be taken away from all, and that nothing ſhould be forgiven any one, unleſs he had got his expreſs command for this purpoſe; and this was done.

done. But in ſucceeding times, when the prince called to mind the advice of Achitophel, he was ſorry he had agreed to it; and ordered all the aforeſaid items to be placed to the accompts of all the officers there, taking no notice of the loſs of a little money, in reſpect of the great honour. He directed therefore his writ to the exchequer, that they who ſat there ſhould be for ever freely diſcharged from it. From this writ therefore, then, and now mentioned, by the King's writ in pardons; and ſo it came to paſs, that what was granted by our anceſtors, is even now obſerved by poſterity. But I remember to have ſeen ſomething like this, in modern times, that the accompt was made up in proceſs of time in the ſame form of words with thoſe who ought to be diſcharged. For the lord King Henry the ſecond, in Michaelmas-term, of the twenty-fourth year of his reign, commanded the knights templars, the brethren and monks of the hoſpitable ciſtercian order, whom he had long before diſcharged, by virtue of his charter, from every thing relating to money, except the right of death and members, to be thenceforth exempt from all pecuniary impoſitions throughout every county, ſo that they were not obliged to bring their charters for the future to the exchequer. For this was done by order of the King's piety, that they might by this means be entirely free at once by the advice of the barons, to prevent thoſe who had determined to lead a better life, and choſe to ſpend their leiſure hours in prayer, from being compelled to make an uſeleſs, and tedious delay upon this account at the exchequer with their charters. The writ of the lord the King was therefore made out by the advice and direction of the barons who were preſent in this form; "I proclaim the knight's templars "diſcharged from the payment of five marks, which are demanded of per-"ſons for their default; and I forbid any thing henceforth to be demanded "or taken from them or their people, or lands in reſpect of money. "Witneſs theſe preſents there." In the like manner alſo were the friendly brothers exempt, and monks above-mentioned. But (*a*) they ſhall be henceforth quit of every thing that regards money, by the authority of this command, throughout every county: ſo that it is entered on the annual roll, ſuch a thing is pardoned by the King's writ, namely, what we have been mentioning above.

(*a* R. B. But *omitted.*

S. I very well underſtand what you have been ſaying; now, if you pleaſe, delay not the explanation of eſcuage, murder, or danegeld. They ſeem to be barbarous terms; but I am the more anxious to know them, becauſe you ſay the officers of the exchequer are free from them.

CHAP. IX.

What eſcuage is, and why ſo called.

M. IT ſometimes happens upon the enemies intending to make an invaſion or inſurrection, that the King orders (*b*) a certain ſum of money to be paid out of every knight's fee, a mark or a pound; by which the ſoldiers wages or donatives are raiſed. For the prince had rather that hirelings than his own countrymen and ſubjects ſhould be oppoſed to the chance of war. This ſum therefore, becauſe it is paid in the name of ſhields it is called ſcutage *. But thoſe who ſit at the exchequer are free from it. (*c*)

(*b*) R. B. orders *omitted.*

* *The words in the original language are ſcutum and ſcutagium; the ſimilitude of which is loſt in the tranſlation.*

(*c*) I do not any where find that the barons and juſticiers who ſit at the exchequer were free from eſcuage by the privilege of their ſeats. I never ſaw, as I know of, inſtances of this ſort of privilege. I ſhall here however mention an inſtance not altogether foreign to the argument; which remains of record on the great roll of the ſecond year of King Richard the firſt. There Geoffry, ſon of Peter, at that time reſident at the exchequer, is entered indebted to the King in forty-nine pounds three ſhillings and four pence, for the eſcuage of Wales: Geoffry, the ſon of Peter, owes forty-nine pounds, three ſhillings and four pence for the ſame eſcuage, [viz. the army of Wales]. Forty-nine pounds three ſhillings and four pence by the privilege of ſitting at the exchequer in pardons, and he is quit. Great roll, 2 Rich. 1. Roll. 9. a. Eſſex and Hertford. *But theſe words* in pardons, *and what follows, are cancelled* in the great roll; *that is, by a line drawn under them, as was cuſtomary in that age.* And the ſame ſum is demanded of Geoffry, ſon of Peter, in every great roll of the following years of King Richard the firſt, to the firſt year of King John. Geoffry is diſcharged from it on the roll of the firſt year of King John; not by the privilege of ſitting at the exchequer; but becauſe the land for which that ſum was demanded was in the King's, not Geoffry's hands, when the eſcuage of Wales was aſſeſſed: Geoffry, ſon of Peter, owes forty-nine pounds three ſhillings and four pence for the ſame, [viz. eſcuage of Wales]. But it is conſidered by the barons that he ought not to be ſummoned for it, becauſe the land was

CHAP. X.

What murder is, and why ſo called.

FUrthermore, murder is properly called the ſecret death of any one whoſe ſlayer is unknown. For murder is the ſame as abſconded or hidden. So that in the firſt ſtate of the kingdom after the conqueſt, thoſe who remained of the Engliſh ſubjects ſecretly laid ſnares for the ſuſpected and deteſted nation of the Normans, and privately cut their throats every where abroad in the woods and remote places whenever an opportunity offered: when the Kings and their miniſters, in revenge of whom they had ſhewn the utmoſt cruelty for many years towards the Engliſh, by new invented ſort of torments, and yet could not altogether put a ſtop to them, at laſt came to this reſolution, that the wapentake, which we call an hundred, in which ſhould be found a murdered Norman, becauſe the perpetrator of his death was not in being, nor did any one appear ſo by flight, ſhould be ſentenced in a vaſt ſum of examined ſilver to the treaſury; ſome in thirty-ſix, ſome in forty-four pounds (*a*), according to the difference of places and the frequency of

was in the King's hands when that eſcuage was aſſeſſed. Great roll, 1 John. Roll. 7. a. Eſſex and Hertford. And indeed, Geoffry, ſon of Peter, was chief juſtice of England, and preſident of the exchequer in the firſt year of King John; and therefore intitled in the higheſt degree to the privileges of the exchequer. In like manner Henry, ſon of Gerold, chamberlain, is mentioned to have been indebted to the King in twenty-ſix pounds nineteen ſhillings and five pence, of the aforeſaid eſcuage of Wales, in the great roll of the ſecond year of King Richard the firſt: Henry, ſon of Gerold, chamberlain, owes twenty-ſix pounds nine ſhillings and five pence for the ſame eſcuage; twenty-ſix pounds nine ſhillings and five pence to the ſame Henry in pardons by the privilege of the exchequer, and he has his quietus. Great roll, 2 Rich. 1. Roll. 9. a. Eſſex and Hertford. *And thoſe words* in pardons, &c. *are here alſo annulled by a line drawn underneath them:* and that ſum alſo is conſtantly placed oppoſite to the name of Henry in the ſubſequent great rolls of King Richard the firſt: and at laſt Warin, ſon of Gerold, Henry's heir, is declared diſcharged by virtue of the King's writ in the firſt year of King John, from many debts, as well his own as thoſe of his mother, and among the reſt from this eſcuage of Wales: Warin, ſon of Gerold, accompts for thoſe ſums, eſpecially for this eſcuage of Wales, nothing in the treaſury; and two hundred and ſeven marks and an half by the King's writ in pardons, and he owes that ſum. Great roll, 1 Joh. Roll. 16. b Oxfordſhire. And ſee Mad. hiſt. of exch. chap. 20. ſect. 7. at the end; Kent. Of the ſervice of Roger of Northwood.

(*a*) R. B. twenty-four pounds.

murder; which they ſay was done, that the puniſhment ſo generally inflicted might render paſſengers ſafe, and that every one might be diligent in puniſhing ſo great an offence, or ſurrender him up to juſtice, by whoſe means ſo enormous a loſs might lie heavy on the whole neighbourhood. You know that thoſe who ſit at the exchequer table are free from this as I ſaid before.

S. What was the clandeſtine death of an Engliſhman as well as of a Norman charged as murder?

M. It was not at firſt, as you have heard: but now the Engliſh and Normans cohabiting together, and marrying each other's people, the nations were ſo mixed together that it was hardly poſſible to diſtinguiſh (I am ſpeaking of the free people) who was an Engliſhman or who was a Norman by birth; except only thoſe who were regiſtered, and called villains, and who were at liberty to change their condition in caſe their lords and maſters are againſt it. Therefore now-a-days, almoſt any one who is found ſo ſlain is puniſhed as a murderer, except thoſe on whom are certain marks of ſlavery, as I ſaid.

S. I am ſurprized that a prince of ſingular excellence, and a man of the ſtricteſt virtue, ſhould ſhew ſo much compaſſion towards the ſubdued and ſuſpected Engliſh nation, that he did not only preſerve the farmers by whom agriculture was to be exerciſed, but that he ſhould leave his eſtates and ample poſſeſſions to the nobility of the kingdom.

M. Though this does not appertain to the buſineſs (*a*) I undertook, in which I am your debtor, yet I will freely explain what I have learnt about it from the inhabitants themſelves. After the conqueſt of the kingdom, and the juſt overthrow of the rebels, when the King himſelf, together with his nobles, had taken a view of their new acquiſitions, a diligent inquiry was made to find out thoſe who had fought againſt the King in the war and had eſcaped by flight. All thoſe, and their heirs alſo, who were engaged in the war, loſt all hopes of their lands, eſtates, and incomes, which they before were in poſſeſſion of: for they thought

(*a*) B. B, buſineſs is *omitted*.

it

it a great thing to enjoy even their lives under their enemies. But thoſe who were called to the war, and did not go, being engaged in domeſtick or ſome other neceſſary concerns, and therefore were not preſent at the tranſactions, if in proceſs of time obtaining their lord's favour by ſubmiſſive obedience, they were put into poſſeſſion again; yet it was only during their lord's pleaſure, without any hopes of their children's ſucceeding them. But when in after-times they became odious to their lords, and were every where turned out of their poſſeſſions, nor would any one reſtore back what was taken away, the general complaint of the inhabitants reached the prince's ears; that thus deſpiſed by all, and robbed of every thing, they ſhould be obliged to go to foreign parts. This being communicated to the council held upon this occaſion, it was reſolved that whatever they could obtain according to their merit, by a lawful agreement entered into between them, from their lords, ſhould be allowed them by an inviolable right: but that they ſhould claim nothing by way of ſucceſſion from the time of the nation's being ſubdued. How diſcreetly the proviſion was made is evident, eſpecially when they ſo much conſulted their own intereſt in every reſpect, as to oblige them likewiſe to endeavour to buy their lord's favour by ſubmiſſive obedience. Thus therefore every one of the ſubdued nation poſſeſſes his eſtates or ſuch-like; not as if they were his right by means of ſucceſſion, but as acquired merely by his own merit, or ſome intervening agreement.

S. I do not thoroughly underſtand the meaning of a wapentake or hundred.

M. Have a little patience; you ſhall know in its proper place under the title of the book of judgment. Let us now proceed to the danegeld; and that the reaſon of it's name may appear to you, give ſome ſmall attention.

CHAP.

CHAP. XI.

What danegeld is, and why ſo called.

OUR iſland, content with it's own commodities, ſtands not in need of foreign ones. Our anceſtors therefore juſtly called it a rich haven, and a delicate abode. Upon this account it has ſuffered many injuries from foreigners; it being written; that "valuable enterprizes "tempt the thief;" for on a violent breaking in of the ſea, the plundering villains of the circumjacent iſlands took away our gold, ſilver, and every thing that was valuable. But when the King and the inhabitants took up arms to defend their nation, they made their eſcape by favour of the waters. Among theſe, the almoſt chief, and always moſt inclined to miſchief, was that warlike and populous nation the Danes; who ſtood out more earneſtly than the common avarice of plunderers generally does, becauſe they claimed ſomething in the government of the kingdom by an ancient right, as the hiſtory of the Britons more fully relates. It was decreed therefore by the Kings of England, in order to drive them away, that two ſilver ſhillings out of every hide of land of the kingdom, by a certain perpetual right, ſhould be paid for the uſe of thoſe courageous men, who being upon the conſtant ſearch and watch-out ſhould weaken the enemy's force by ſea. As therefore this revenue was chiefly inſtituted for the Danes, it was called danegeld *. This therefore by an annual law, as is ſaid, was paid to the King's inhabitants of this iſland, even to the reign of King William the firſt of the Norman nation and race. For in his reign the Danes, as well as the reſt of the plunderers by land and ſea, deſiſted from their hoſtile invaſions; knowing that what was written was true; "that when a ſtrong army keeps "guard in a port, every thing within is ſecure." Nor were they ignorant that men of ſtrict virtue did not ſuffer injuries to go unpuniſhed. When therefore the land had paid it for a long time in the ſame King's reign, he did not deſire that to be paid annually, which was aſſeſſed through urgent neceſſity in time of war, nor wholly to be forgiven, for fear of unexpected accidents. It was therefore ſeldom paid in his time, or his ſucceſſors: that is, when wars or ſuppoſed wars were waged in foreign nations. But whenever it is paid, thoſe who ſit at the exchequer, as I ſaid, are exempt from it. The ſheriffs alſo, though they are not reckoned among the barons of the exchequer, are free from it in regard to their domains, by reaſon of their labour in collecting the revenue. But you muſt know, that thoſe are every body's domains which are cultivated at their own expence, or by their own labour;

* *Or Danegeld, danegeldum, or danegeldus, that is a neuter or maſculine ſubſtantive.*

and likewiſe thoſe which their villains are in poſſeſſion of in their name. For ſlaves by the law of the kingdom may be transferred, not only from thoſe parts which they are now in poſſeſſion of to others by their lords, but likewiſe they may be lawfully ſold or diſpoſed of as they pleaſe; becauſe as well they as the lands which they cultivate for the ſervice of their lords, are juſtly eſteemed domains. It is likewiſe reported by thoſe who have been eye-witneſſes of the ancient dignity of the exchequer, that the barons of it are privileged from waſte of foreſts in reſpect of their domains. Which I alſo allow; with this additional determination, that thoſe ſhould be ſaid to be free from theſe waſtes, who were ſo before the day on which the illuſtrious King Henry the firſt was diſengaged from human affairs. For if they were indemnified from every thing done or to be done at any time, it would ſeem as if the barons were at liberty to cut down juſt as they thought proper their woods in which is the King's foreſt, by reaſon of their exemption; which they can by no means do, unleſs they firſt obtain the King's or the chief foreſter's conſent. Beſides, they who have their places of abode in the foreſt, do not take away any thing for the neceſſary uſe of their families out of their own woods, but in view of thoſe who are appointed to take care of them. Yet there are many who would affirm by their arguments, that no one is free from theſe waſtes by reaſon of their ſeat at the exchequer. If any one who ſat at the exchequer ſhould unfortunately offend the prince, for which he deſerved a pecuniary puniſhment, he was not clear of that puniſhment but by the prince's ſpecial command. When therefore waſte is committed, and the offender eſcapes into the King's foreſt, he who ſo offended was puniſhed: for he ought not, as they ſay, to be diſcharged without the King's expreſs command. This reaſoning, though it be ſubtle, and ſeems to ſome ſcarcely ſufficient, yet it ſhews that the puniſhment for committing waſte was generally inflicted on thoſe who ſo offended; namely, one ſhilling was to be for ever paid for laying waſte one acre of wheat; and (*a*) ſix pence for an acre in which corn was ſown. But the ſum collected from theſe particulars amounted to ſomething conſiderable, for which the ſheriff was bound to anſwer at the exchequer; as one ſum called the the common aſſize, which had its riſe from the two accuſtomed ſhillings, or one on each hide of the county. Becauſe therefore waſte has an expreſs likeneſs in theſe (*b*) to the common aſſize, as is ſaid, it might be

(*a*) R. B. five pence.

(*b*) R. B. in theſe *omitted.*

thought,

thought, and not without reaſon, that they ſhould be in the ſame manner free from waſte as from other common aſſizes. Moreover, the reſpectable authority of immemorial cuſtom and uſage was a convincing proof of it. For thoſe, whoſe remembrance ought to be held almoſt infallible (*a*), recollect that theſe things were ſo in paſt ages, I, who am ſpeaking to you, have ſeen in modern times Robert, earl of Leiceſter, a diſcreet man, lettered and well verſed in the law; and having the natural qualifications of the mind, was an emulator of his father's prudence; whoſe induſtry was proved in many reſpects by our prince Henry the ſecond, whom neither concealed prudence nor affected folly deceived; inſomuch that he obtained the dignity of preſident by his command, not only at the exchequer, but alſo throughout the whole kingdom. He once on the eve of a viſitation of the woods, generally called a ſurvey, made every three years, procured the King's writ to be free from thoſe ſums of money that were demanded out of his land for waſte, putting in the number ariſing out of them: which being carried and read in public at the exchequer, all were amazed and aſtoniſhed, ſaying, Does not this earl weaken our liberty? The officers ſtaring at each other, Nigell, then (*b*) biſhop of Ely of bleſſed memory, roſe up and ſpoke with the greateſt decency to the following effect: "My lord, you ſeem to have rendered the dignity of the exchequer fruitleſs by this writ, in having obtained the King's command for thoſe things from which you are free by your ſeat in the exchequer: as if he ſhould of courſe (*c*) hereafter be concluded by reaſon of his place from a ſuperior one. It is true, that he who does not obtain the King's writ for waſte, ſoon becomes liable to pay for it; but with deference to your lordſhip, this manner of diſcharge is dangerous, becauſe of the precedent." When therefore as it happens in diſputes, ſome are of one opinion, ſome of another (*d*), the annual roll in the time of that great King whom we have mentioned above, under whom the dignity and knowledge of the exchequer is ſaid to have been in a very flouriſhing condition, was produced (*e*) as a ſtrong argument of this

(*a*) R. B. ſound.

(*b*) R. B. then *omitted.*

(*c*) R. B. hereafter *omitted.*

(*d*) R. B. the annual roll in the time of that great King *is omitted.*

(*e*) R. B. as a ſtrong argument *omitted.*

matter;

matter; and ſomething was found in it which ſeemed to agree with what the biſhop had alledged, concerning the dignity of the officers. Upon hearing of which, the earl after ſome conſideration, delivers himſelf in this manner: "I acknowledge I have obtained the King's writ for this purpoſe; not to weaken your right, but that I might by this means, without trouble, avoid the King's too importunate, yet unknown levying of money." Renouncing therefore his writ, he choſe rather to be diſcharged by virtue of his ſeat. In ſucceeding time, when the aforeſaid biſhop labouring under infirmities could not be preſent, I myſelf ſupplying his place (*a*) at the exchequer, as well as I was able, the waſte happened to be paid for; when therefore the tax was paid for his domain I made my complaint in public, alledging a right to be diſcharged. The ſum therefore which I had juſt now paid was returned me by the general advice and conſideration of every one, with a reſerve however of the produce of his domain; that what was aſſeſſed upon each of his villains ſhould be abſolutely reſtored, that poſterity might have a proof of this tranſaction.

S. With deference to your worſhip, not examples but reaſons are to be made uſe of in theſe matters.

M. So they ought; but it ſometimes happens that the cauſes of things, and reaſons of ſayings are concealed, and then it is enough to give examples of them, eſpecially ſuch as are quoted from prudent men, whoſe actions are circumſpect, and not done without reaſon. But whatever I have ſaid about theſe matters, alledging any thing for or againſt this or that privilege, you may be aſſured, that I urge nothing as certain but what is ordered to be obſerved by the King's authority. The manner of proceeding in the foreſts, as alſo the puniſhment or diſcharge of offenders in them, whether it be pecuniary or corporal, is ſeparately diſtinguiſhed by other judgments of the kingdom, and is ſubject to the King's pleaſure only, or of ſome officer ſpecially appointed for this purpoſe. It is indeed ſupported by it's own laws; which they ſay, depend not on the common law of the kingdom, but the voluntary ordinances of princes; ſo that what is done by it's law is not ſaid to be abſolutely juſt, but juſt according to the foreſt law. The King's palaces and their chiefeſt delights are in the foreſt; for they come hither for the ſake of hunting, to refreſh themſelves for a while with a little eaſe, after having diſengaged themſelves from care. There they for a while likewiſe breath the air of natural liberty; ſhaking off at the ſame time their ſerioufneſs and trouble, the conſequence of concern; whence it is that offenders in it are liable to be puniſhed by the King only.

(*a*) R. B. his place *omitted*.

S. I was taught from my cradle, that it was wrong for a prudent man to chooſe rather to remain in ignorance than inquire the cauſes of ſayings; that therefore the above matter may more fully appear, haſten to diſcloſe the meaning of foreſt and waſte.

CHAP. XII.

What the King's foreſt is, and the reaſon of it's name.

M. THE King's foreſt is a ſafe manſion for wild beaſts; not of any ſort but of woody ones; not in any places, but particular and proper ones for this purpoſe; whence it is called foreſt, by changing the letter E into O, as fereſt; that is, a ſtation for wild beaſts.

S. Has the King a foreſt in every county?

M. No; only in the woody ones, where there are the beſt coverts and moſt fertile feedings for the beaſts: neither does it matter to whom the woods belong, whether to the King or the nobles of the kingdom; for the beaſts are at their liberty to range uncontrouled over every part of them.

CHAP. XIII.

What eſtrepement is, and why ſo called.

WHAT you find called *occaſiones* by Iſidorus, are generally ſaid to be eſtrepement; that is, when the woods and brambles of the foreſt are occaſionaly cut down for food and coverts; after the cutting down of which, and the roots pulled up, the land is turned up and cultivated. But if the woods were cut down in ſuch a manner, that ſcarcely the ſtock of an oak, or any other tree, remained ſtanding in thoſe parts where they had been cutting, and five could be found cut down together in one place, they looked upon it as waſte; that is, laid waſte, ſo called by the rhetorical figure ſyncope. But ſuch devaſtations committed, even in one's own woods, was thought of ſuch conſequence, that they ought never to be releaſed by their ſeat in the exchequer; but ſhould rather be puniſhed according to their circumſtances. Thus I have figuratively explained the dignities of thoſe who ſit at the exchequer, as well as I was able, and in as methodical a manner as they occured to my memory: but it is not yet ſettled how far the muificence

munificence of Kings ſhall extend in theſe matters; for all of them, who are truly wiſe, are inclined to the grace they are intruſted with, in promoting the glory of their own dignity: but that moſt illuſtrious King of England, Henry the ſecond, the greateſt of earthly princes, always ſtrove to increaſe the dignities of his officers; knowing for certain, that beſtowing favours on them would purchaſe glory to his name, by titles of immortal fame. Now therefore let us change our diſcourſe to other matters.

S. It is of courſe, unleſs I am miſtaken, as appears to me from what you have ſaid, to treat of the King's ſeal and judgment book; the firſt of which, if I rightly recollect, is kept in the treaſury, and is never taken out of it.

M. Yes, both of them, and alſo many other matters.

CHAP. XIV.

That the treaſury is ſometimes the money itſelf; ſometimes the place in which it is kept.

BUT you muſt know, that the treaſury is ſometimes called the very numbered money itſelf; the golden or ſilver veſſels, of different ſorts and changes of raiment. According to this acceptation of the word, is ſaid, "Where your treaſure is, there is your heart alſo." For treaſury is called the place in which it is placed; whence the treaſury is called the theſis, that is, (*a*) the repoſitory (*b*); ſo that now it is inconſiſtently anſwered; one aſking where any thing is, "it is in "the treaſury;" that is, where the treaſure is repoſited. The numbered money indeed, or any of the aforeſaid things, once ſafely repoſited, are not taken out, unleſs ſent for by the King's command to be diſpoſed of for neceſſary uſes. But there are more things in the repoſitories, and cheſts of the treaſury, which are carried about, and locked up, and kept by the treaſurer and chamberlains, as is more fully ſhewn before: ſuch as the King's ſeal, of which you have been making inquiry; the judgment book, the roll which is called the tax-roll, which they alſo call the writ of fermes, and the great annual rolls of accomps; an infinite number of privileges; the foils of receipts, and rolls of receipts, and the King's writs iſſued out of the treaſury, and many others; which during the ſitting of the exchequer are neceſſary for daily uſe.

(*a*) R. B. that is *omitted*.

(*b*) We muſt excuſe the author's ſuppoſing the treaſury is called theſaurus; as it were theſis auri, or repoſitory for gold.

CHAP. XV.

The uſe of the King's ſeal in the treaſury.

WHAT ought to be the uſe of the King's ſeal, may appear from what has gone before: for the ſummonces which are made, and other the King's commands, belonging ſolely to the exchequer, are ſealed with it; nor is it carried any where elſe; but, as is ſaid above, is kept by the chancellor's deputy. It has an effigy and inſcription ſtampt on it, with a deambulatory ſeal of the court, that the authority of him who orders may be equally known on both ſides, and that the perſon accuſed of acting otherwiſe, may be tried in the ſame manner for one offence as for another. Beſides, the book you made inquiry of, is the inſeparable companion of the King's ſeal in the treaſury. Thus had I the reaſon of this cuſtom from Henry, formerly biſhop of Wincheſter.

CHAP. XVI.

The judgment book, and why compoſed.

WHEN that famous conqueror of England, King William, nearly allied in blood to the ſame prelate, had ſubjected the farther borders of the iſland to his command, and had got the better of the deſigns of the dreadful rebels by examples; to prevent their being miſled for the future, he ordered the ſubdued people to be ſubject to him by a written right and laws. The Engliſh laws therefore (*a*) being propoſed according to their tripartite diviſion, that is, Merchenelage, or the law of the Mercians, Danelage, or the law of the Danes (*b*); and Weſt-Saxenelage, or the law of the Weſt-Saxons; ſome he diſapproved of, but approving of others, added the foreign laws of Normandy to them, which ſeemed moſt efficacious towards preſerving the peace of the kingdom. At laſt, that nothing might be wanting, having taken advice upon every thing that could be fore-thought of, he appointed the moſt diſcreet men about him to go the circuits all over the kingdom, to make a careful deſcription of the whole land, as well of the woods as of the paſtures and meadows; as likewiſe of the agriculture: and being taken down in common words, it was reduced into a book; in order that every one content with his own right might not uſurp ano-

(*a*) R. B. therefore *omitted.*

(*b*) R. B. the law of the Danes *is omitted.*

ther's

ther's without puniſhment. The deſcription was made by the counties, wapentakes and hides: the King's name being prefixed at the top, and then the names of other noblemen were placed in order, according to the dignity of their poſts; namely, thoſe who held of the King in capite; that was thoſe who were his immediate tenants: and the numbers were placed to each in this method according to order; by which, farther in the run of the book, they might be able more eaſily to find what belonged to them. This book was called by the inhabitants Domeſday, that is, metaphorically, the day of judgment; for as the ſentence of that ſtrict and dreadful laſt examination, cannot be eluded by any art of equivocation; ſo (*a*) in like manner, when any diſpute ſhould ariſe in the kingdom concerning the things there ſet down, upon recourſe had to the book, the ſentence of it could not be rejected or avoided, without puniſhment. We have therefore called it the Book of Judgment; not (*b*) that there is an opinion given in it of any doubtful points; but becauſe you cannot diſagree to it, any more than you can to the aforeſaid judgment.

S. If you pleaſe, inform me what a county, a wapentake, and an hide mean; otherwiſe I ſhall not thoroughly underſtand what is gone before.

CHAP. XVII.

What an hide, an hundred, and a county mean, according to the general opinion and common acceptation of the words.

M. THE country folks know this beſt; and as I have been informed by them, an hide, from the firſt inſtitution of it, conſiſted of one hundred acres: an hundred, of ſome hundreds of hides, but not a fixed number; for ſome were more hides, ſome leſs. Hence you will frequently find an hundred called a wapentake in the ancient privileges of the Kings of England. But counties conſiſt of hundreds by the ſame rule; that is to ſay, ſome of more, ſome of leſs, juſt as the ground happened to be divided by thoſe diſcreet men above-mentioned. A county therefore is ſo called from an earl, or an earl ſo called from a county. An earl is one who receives a third part of the fines in each county. For that ſum of money which is demanded of the ſheriff

(*a*) R. B. ſo *omitted*

(*b*) R. B. not *omitted*

riff by way of ferme, does not entirely ariſe out of the rents of the eſtates, but is in a great meaſure the produce of fines; and the earl receives a third part of them; who is ſaid to be ſo called, becauſe he is an attendant on the treaſury, and a partaker of the perquiſites. Moreover, the ſheriff is ſo called (*a*), becauſe he ſupplies the ſtead of the earl in thoſe pleas, in which the earl has a ſhare by reaſon of his dignity.

S. Doth

(*a*) He was called ſheriff, becauſe he acted in the earl's ſtead. But in what ſenſe, or in what reſpect he acted, is indeed doubtful. The learned author of the dialogue here ſays, that the ſheriff ſupplyed the ſtead of the earl in thoſe pleas, of which the earl, by reaſon of his dignity, partook [with the King]; *and he hints, that he took his name of ſheriff from hence.* Many of the later authors have followed his opinion. But we may conſider the matter again. It is certainly true, that the ſheriff did hold the pleas of the county of which he was ſheriff. But did he hold thoſe pleas in the ſtead or place of the earl? He indiſputably held them in the ſtead of the King; as having the care and cuſtody of the county entruſted to him by the King himſelf. For in England the ſheriff was the King's ſervant, not the earl's. It is alſo true, that the third penny of the pleas of the county, was uſually granted to the earl by the King, upon his being created an earl; which third penny was called creation-money. But whether the earl partakes of it with the King, by reaſon of his dignity in the pleas of the county, as the famous author here ſuppoſes, I know not. But one inſtance, as I remember, is to be met with in the ancient membranes, where the earl's third penny is called part of his county. That inſtance is in the earl of St. Patrick; and is thus: Wiltſhire; The earl of St. Patrick accompts for thirty-eight pounds and nine ſhillings and three pence, blank of old ferme: twenty-two pounds and ſixteen ſhillings and ſeven pence to the earl of St. Patrick for his part of the county by tale; and eighteen pounds blank by Warin, ſon of Gerold, by the King, out of reſpect this year. And he has twenty-three ſhillings and ſeven pence blank ſurpluſage. And the ſame ſheriff accompts for the new ferme: in the treaſury, &c. And twenty-two pounds and ſixteen ſhillings and ſeven pence by the King's writ to the earl of St. Patrick for the third penny of the county. Great roll, 3 H. 2. Roll. 3. a. What follows from hence? The earl indeed is ſo far ſaid to partake with the King, as he has one part of the fines of the county; namely, a third, and the King another; namely, two thirds: he partakes, I ſay; but not in all likelihood by reaſon of his dignity. For it is clear, that the royal bounty beſtowed the third penny on the earl; and therefore is ſometimes called an annual fee of the county; as if it was a gift from the King's munificence. Concerning this, ſee Mad. hiſt. of exch. chap. 23. ſect. 2. 13 Ed. 1. and the petition of Hugh de Courteney to Iſabel his ſiſter; and ibid. 26 Ed. 1. And indeed, as the third penny was paid to the earl by the hand of the ſheriff, there is no reaſon to believe he was his ſubſtitute. It ought likewiſe to be remembered, that ſometimes the ſame perſon was, if the King was pleaſed to have it ſo, both earl and ſheriff of the county. For example; Richard, earl of Devonſhire, was the King's ſheriff of the ſame county, in the ſecond year of King Henry the ſecond: Richard, the earl, accompts for the ferme of Devonſhire. Great roll, 2 H. 2. Roll. 10. As St. Patrick, earl of Saliſbury, or Wiltſhire, was the King's ſheriff, or fermer of Wiltſhire, in the fourth and alſo in the fifth year of King Henry the ſecond: the earl of St. Patrick accompts for the ferme of Wiltſhire,—— and twenty-two pounds and ſixteen ſhillings and ſeven pence to the earl of St. Patrick for the third penny of the county. Great roll, 4 H. 2. Roll. 2. a. The earl of St. Patrick accompts for the ferme of Wiltſhire,—

and

S. Do the earls in every county partake of them?

M. No; but thoſe only on whom the King, in regard to their obedience or great integrity, pleaſes to confer them by reaſon of that dignity: ſome are hereditary, ſome perſonal.

CHAP.

and twenty-two pounds and ſixteen ſhillings and ſeven pence to the earl of St. Patrick for the third penny of the county. Great roll, 5 H. 2. Roll. 6. a. Geoffry, ſon of Peter, earl of Eſſex, was ſheriff of Eſſex and Hertfordſhire, and enjoyed the third penny of the former of the two counties in the fourth and fifth years of King Richard the firſt: Geoffry, ſon of Peter Richard de Herriet, accompts for forty-five pounds and two ſhillings and ſix pence blank of the old ferme of Eſſex and Hertfordſhire: he has delivered it into the treaſury, and has his quietus; and the ſame for the new ferme; that ſum in the treaſury:—— and forty pounds and ten ſhillings and ten pence by tale to Geoffry, ſon of Peter, for the third penny of the county; and eighteen pounds and nine ſhillings and nine pence to the ſheriff himſelf in the town of Hertford, for the cuſtody of the caſtle of Hertford, &c. Great roll, 4 Rich. 1. Roll. 1. a. Great roll, 5 Rich. 1. roll, 1. a m. 1 .tit. Eſſex and Hertfordſhire, word for word. William, earl of Saliſbury, was the King's ſherlff of Wiltſhire in the eighth year of King Richard the firſt: William earl of Sal [iſbury], Thomas, ſon of William, accompts for the ferme of Wiltſhire; that ſum in the treaſury on account thereof, &c. Great roll, 8 Rich. 1. Roll. 2. a. William de Warren, earl of Surry, was ſheriff of that county in the ninth year of King Henry the third: William Warren, earl of Surry, William de Mara as warden of it, accompts for one hundred and ſeventy-four pounds and ſeven ſhillings blank for the ferme of the county. Great roll, 9 H. 3. Roll. 3. a. m. 1 Surry: and the ſame the tenth year: William de Warren, earl of Surry, William de Mara as warden of it, accompts for one hundred and ſeventy-four pounds and ſeven ſhillings blank for the ferme of the county. Great roll, 10 H. 3. Roll.—— m. 1. Surry, Hubert de Burgh, earl of Kent, was ſheriff of that county the eleventh year (and other years) of King Henry the third: Hubert de Burgh, William Brito, as warden of it, accompts for that ſum of the ferme of the county; —— and fifty pounds of the third penny of the county by the King's writ to Hubert de Burgh, earl of Kent. Great roll, 11 H. 3. Roll. a. m. 1. tit. Kent. Edward, the King's eldeſt ſon (a few years afterwards King of England), was ſheriff of the counties of Buckingham and Bedford the fifty-ſecond and fifty-third years of King Henry the third. Edward, the King's eldeſt ſon, Bartholomew le Joevene, his under ſheriff, accompts for three hundred and ſeventy-nine pounds and nineteen ſhillings and ten pence blank on account thereof; and of one hundred and eight pounds by tale of the ferme of the counties: and for [the ſame ſums] of the ſame for the year paſt. Great roll, 53 H. 3. Buck. and Bedf. m. 1. b. But I do not apprehend we are to ſuppoſe, that lord Edward, the heir apparent (as we call him) of the crown of England, was the ſubſtitute of any earl. Hither alſo, may the ſheriffs in fee, or hereditary ones, be referred: upon each of which we cannot dwell. From theſe, and the like inſtances, it ſeems probable, that the ſheriff was the King's, not the earl's deputy. But I forbear ſpeaking any more concerning the earl. I return to the ſheriff; in order to ſpeak a little of his name and office.

I will not conſider what explanations the gloſſariſts put on the word vicecomes, (ſheriff). The reader may conſult them, if he pleaſes, at his leiſure. I am deſirous of adding a conjecture in regard to this matter, which no one of my countrymen has hitherto attempted as I know of; but it muſt be left to the reader's judgment. He is therefore called vicecomes,

CHAP. XVIII.

The tax roll.

THE tax roll is that, in which are diſtinctly and carefully entered the King's fermes that ariſe from each county, which ſum cannot be leſſened, but is oftentimes increaſed by the juſtices labour and diligence. The meaning of the reſt; namely, of the annual rolls, and of others

comes, (ſheriff) becauſe *vice fungitur comitis*; he officiates in the ſtead of the earl, that is, the prince. Firſt, we muſt obſerve, that formerly the chief governors of certain provinces were earls, as the ancient and preſent Kings of England. For the princes of Normandy, and of many other provinces, were diſtinguiſhed by the title of earls, and then of dukes; as may be ſeen in the ancient hiſtory of thoſe provinces. They were officers of ancient inſtitution, inveſted with great power by theſe earls, to defend and govern particular diſtricts of their country; who, becauſe they repreſented their earl, that is, their prince, each in his diſtrict, and acted in his ſtead, were called ſheriffs from theſe earls. The writers of the annals of Flanders maintain this explanation in eloquent terms. They affirm, that the ancient princes of Flanders inſtituted ſome hereditary offices and annexed them to fees; that is, ſome for the performance of the ſervices here undermentioned; and ſome for the adminiſtring of juſtice to their ſubjects; of which ſort were the ſheriffs; who were ſo called, becauſe the earls (or princes) granted them their places to govern the burghs and cities, and alſo other privileges and powers, ſuch as the addition of conſtables of caſtles, &c. I refer the reader to Adrian Barland and others, who wrote concerning the remarkable occurrences of Belgia. The Greeks call it burgh, or πυργον, a furniſhed tower. Indeed, the princes of Flanders (before they took the name of Burgundy and Auſtria) formerly inſtituted offices annexed to fees that they might deſcend to the heirs: ſome were appointed to reſtore every one to his right. Here amongſt others were comprehended the ſheriffs: that is, thoſe to whom the earls granted their places in the government of burghs and citadels, with the addition of privileges and advantages. Whence alſo they were called governors of caſtles. —— Others for the domeſtick accompts and revenues of the prince. — Others for military employment. This was the conſtable's duty. Hamyrallus and Marſcalcus are to the ſame purpoſe.

Adrian Barland and others, concerning the remarkable affairs of Belgia, p. 77. It was ſo, not only in Flanders, but alſo in other countries, as in Normandy, &c. in almoſt the ſame manner: becauſe the ſheriff acted in the ſtead of the earl or prince. Add, that the deſcription of the ſheriff, which I have partly above referred you to, and partly quoted from Barland, exactly agrees with the ancient office of the ſheriff, as it was after the Norman conqueſt: for not only the cuſtody of the county, but alſo the trouble of pronouncing juſtice, and defending the King's caſtles, was entruſted to the Anglo-Saxon ſheriff by the King, by ancient cuſtom; as is ſhewn in many inſtances in Mad. hiſt. exch. The cuſtom was the ſame in Normandy. There were certain judges who were called ſheriffs, as Dueren affirms: — whom (that is to ſay, the judge) he calls earl; becauſe it was the name of his office: hence the name of ſheriff; and ſome judges are to this day called ſheriffs in Normandy. Dueren on the cuſt. of Feuds. c. 20. ſect. 3. As to the Engliſh; I am apt to think the office of ſheriff (as it ſtood after the conqueſt) was brought into England by the Normans: the name of ſheriff, together with his office, was eaſily changed from the dominions of earls to thoſe of Kings.

That

others that we have mentioned before, which are in the treaſury, and never taken out of it; is ſufficiently cleared up by what has been ſaid before. It remains therefore to treat of the greater and more neceſſary cuſtoms of the exchequer, in which, as I have ſaid, the knowledge of it is more excellent and uſeful, and the leaſt known to many.

That diviſion of the country in the time of the Anglo-Saxons, was called among the Engliſh *ſhire*, which was afterwards called county by the Anglo-Normans. And the officer among the Anglo-Saxons was called the governor of the ſhire, or the royal governor; whom the King entruſted with the cuſtody, or ſuperintendancy of the ſhire. The ſheriff ſucceeded ſome time after the conqueſt; but very different, if I am not miſtaken, in power as well as in the nature of the office; as may appear from a compariſon of each office. But though the office was changed, the ancient name of ſhrieve remained, and the Norman name ſheriff took place at the ſame time.

It will be of uſe, to ſpeak a little in this place, of the manner of appointing a ſheriff; and the rather, becauſe ſome authors have not wrote a true account of the matter. The ſheriffs of counties, after the Norman conqueſt, were appointed at the King's pleaſure: ſome for a quarter of a year, ſome for half a year; others (which was moſt uſual) for a year: others from year to year, for many years together. And ſome others (if the King pleaſed) by an hereditary right. The counties were committed to ſome as fermers, to others as wardens, or (as they were called) approvers. But each of them was immediately ſubject, and anſwerable to the King. Neither is it to be wondered at; for each in his county was almoſt uſually the chief collector of the royal revenue; the King's itinerant juſtice for determining pleas, aſſeſſing of tallages, &c. and at the ſame time keeper of the King's caſtles, and conſervator of his manors. Therefore what the learned Henry Spelman ſays (in his Gloſſary, p. 555. col. 1.) at the word vicecomes (ſheriff) ſeems to me to be falſe. He ſays, the ſheriffs formerly were uſually choſen by freemen in the county court, juſt as the members of Parliament are at this day. For it is clear, it was very differently ordained after the Norman conqueſt. From which time we grant, that all ſheriffs of counties were appointed ſolely by the King; unleſs he was pleaſed to allow ſome the privilege of chooſing their own ſheriffs, as in London. The ſheriffs of counties were uſually appointed in this manner, until it was enacted by ſome ſtatutes, (as by the ſtatute of Lincoln of the ninth year of King Edward the ſecond, and the ſtatutes of the fourteenth year of King Edward the third, chap. 7. and of the twelfth year of King Richard the ſecond, chap. 2.) by which it is enacted, that they ſhall be named by the King's councel at the exchequer * on the morrow of all ſouls in every year; to be afterwards choſen and appointed by the King himſelf; which method remains to this day.

* *On the morrow of St. Martin by ſtat.* 24 *Geo.* 2. *c.* 48.

The End of the Firſt BOOK.

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(*a*) R. B. alms *omitted*

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Chap. XXVIII. That the ſheriff having taken the oath once, it is in general ſufficient for any lawful accompt.

(*a*) R. B. that he may *omitted.*

Hear

The SECOND BOOK.

INTRODUCTION.

HEAR me, brother, and conſider attentively what I ſay. You will not repent beſtowing ſome of your leiſure hours upon buſineſs. There are ſome who are not (*a*) aſhamed of ſaying in their hearts, that thoſe who lay up knowledge, lay up ſorrow. Learning is burthenſome to them, and they delight in ignorance. So it is very truely ſaid of them, that thoſe who diſlike the pleaſant fatigue of inſtruction, will fall into many miſtakes, and be often miſled. They become blind of heart, and not ſeeing the dangers of the roads, ruſh head-foremoſt into precipices. But you, brother, are never idle; leſt human weakneſs, always inclined to miſchief, ſhould ſubject you unemployed, to the worſt of evils. If you ſhould happen to have no real buſineſs, pretend to have ſome; that the mind being always in exerciſe, may be more ready for learning. Give therefore ſome ſmall attention to this buſineſs, which you have engaged me in; not that you will reap great advantage from your labour, but only to prevent your being idle.

S. I am afraid the coming on of the night will precipitately end our buſineſs, and that you will in your hurry omit many neceſſary matters, in order to rid yourſelf of my troubleſome queſtions.

M. Nay, I had more reaſon to fear, that the laughter you have ſo long retained, occaſioned by my rude ſtyle, would choak you; or that you was ſecretly conſidering with yourſelf, how you might drop this buſineſs, you have engaged me in, without offending me. I own, upon this account, I was almoſt determined to put an improper end to my diſcourſe: but however, as I find you are deſirous of learning, and hitherto have not been wanting in a careful attention, I will proceed in the remaining part of my deſign. In order therefore to continue in the method of our intended ſcheme, I muſt firſt treat of the ſummonces; that is, by whom, in what manner, and to what purpoſe they are made

(*a*) B. B not *omitted.*

out.

out. And that thoſe matters may appear more fully to you, I muſt premiſe, that there are three ſummonces, the firſt, ſecond, and third, that is, for what purpoſe each is made out.

Summonces are made out that the exchequer may be held.

FOR thoſe who are neceſſary, are convened to the appointed place, by writ of ſummonce, which is firſt iſſued out, ſealed with the ſeal of royal authority; for they are not obliged to come without being ſummoned. But ſome come to ſit, and judge, ſome to pay and be judged. The barons, whom we mentioned above, ſit and judge by virtue of their office, or by the prince's command. But the ſheriffs, and many more in the kingdom, pay, and are judged, ſome of whom are liable to voluntary fines, ſome to neceſſary payments, of which we ſhall ſpeak more largely in treating of the ſheriff's accompts. Since therefore, in the ſeveral counties, there are great numbers of them; how much is to be paid the enſuing term, as alſo the cauſe; as if (*a*) you ſay, have this, or that ſum (*b*) of him, for this or that cauſe; ſhould be methodically mentioned in the citation ſent out; but if upon the ſheriff's paſſing his accompt, any thing is demanded of any debtor in his county, of whom no mention was made in the ſummonce, he will not be obliged to anſwer it; but the rather excuſed; becauſe the ſummonce which preceded the paſſing his accompt did not mention it. The ſummonces therefore are made out for this purpoſe, that the King's fermes and debts, to be demanded by various methods, may be brought into the treaſury. But there are ſome, which muſt be brought in by the ſheriff though there be no ſummonce made out for them. But theſe are rather incidental, than ſettled or certain, as will clearly appear from what follows.

In what manner the ſummonces are made out.

BUT we muſt firſt ſpeak of the manner and method, in which they are made out, and laſtly, by whom. You muſt know, that the King's debts in every county, are excepted by the treaſurer's clerks from the great roll of that year, and are tranſcribed into ſhorter ones, together with the cauſes, at the cloſe of the exchequer of that term in which the ſummonces are made out, which being done, thoſe whom we called the majores, withdraw, and each county being prefixed, determine for

(*a*) B. B. thus (*b*) B. B. ſum *omitted.*

how

how much each debtor ought to be ſummoned, taking into conſideration the quality of the perſon, the nature of the buſineſs, and the cauſe for which he is bound to the King. The authentick annual roll from which the debts are taken, is kept by the treaſurer or his clerk, leſt there ſhould happen to be ſome miſtake in excepting them. There is alſo another clerk, who carefully marks what they aſſeſs on thoſe debts which are excepted; for which the ſummonce is made out in theſe words: "H. (*a*) King of England to ſuch or ſuch a ſheriff greeting. "See, as you love yourſelf, and all yours, that you be at the exchequer at "ſuch or ſuch a place, on the morrow of St. Michael, or on the morrow of "the cloſe of Eaſter, and have there with you whatever you owe of "old or new ferme, and the names of the debts ſubſcribed; ten "marks of ſuch an one for ſuch a cauſe, and ſo on." All the debts being marked there regularly with the cauſes of them, contained in the great annual roll, the leſs rolls of the itinerant juſtices are produced, out of which are excepted the lord the King's debts in each county, by their labour and induſtry; when theſe have been aſſeſſed by the majores, they are marked in the ſummonces; which being digeſted into order, the ſummonce ends in theſe words: "And have all "theſe with you in money, tallies, writs, and acquittances, or they "will be taken out of your ferme; witneſs ſuch or ſuch an one, there "at the exchequer." But ſome were of opinion that it ſhould be ſaid in money, or tallies, or writs, or acquittances; not knowing that *or* is ſometimes uſed disjunctively. This ſort of diſpute about words is ſuperfluous, when their meaning is underſtood: for whether you ſay in money, or writs, or acquittances, or in money, and writs, and acquittances, the meaning is the ſame; that namely, ſatisfaction be made for all thoſe, or ſome of them, contained in the ſummonce. Beſides, becauſe new remedies ought to be applied to new diſeaſes, this ſubſcription was added in the ſummonces, by a new cuſtom, that is, after King Henry the firſt's time: "If you ſhould be ſummoned for any "one's debt, who has no land or chattels in your bailiwick, and "you ſhould know in whoſe bailiwick or county he had any; you "yourſelf ſhall ſignify it by your writ to that ſheriff or bailiff, ſome "one carrying it ſent by you, who, if he can, ſhall deliver your writ "to him in the county, or in the preſence of many." This which I ſay was added, occaſioned ſome very ridiculous and prejudicial evaſions. This determination being agreed on, the ſummonces were ſent out by the

(*a*) B. B. N. King.

ſummoner

ſummoner of the debts, who was known before he got into the county; ſo that the debtor having emptied his barns, and diſpoſed of his money, by diſtributing it about, or carrying it to ſome ſafe place, ſat at home entirely bereft of every thing, and without the leaſt concern waited the coming of the ſheriff, and his officers; thus was the authority of the King's ſummonce evaded many years at no ſmall expence. For the ſheriff not knowing the reaſon of his being ſo unconcerned, as he had no warrant, could not preſume to ſeize his eſtate. What therefore I have premiſed, was upon this conſideration added for ſome years to the ſummonces; nor had any one an opportunity afterwards to avail himſelf of an evaſion, but every debtor was obliged to make ſatisfaction ſome way or other, unleſs thoſe whoſe extream poverty excuſed them. But ſince, now all the ſheriffs and debtors have agreed that theſe ſophiſtical importunities ſhall be dropt; there was no more occaſion to add the above, nor is it added: but that method which is ſaid to be practiſed of diſtraining the debtors, where-ever they have taken themſelves, continues among the ſheriffs, and, as if it was inſtituted by a certain perpetual right, is ſtill obſerved.

S. I have heard a great many ſay long ago, that the exchequer is convened twice a year; that is, in Eaſter and Michaelmas term. You ſaid, if I remember rightly, that the exchequer could not be held unleſs ſummonces were firſt ſent out. Since therefore ſummonces are made out for each term, I deſire, if you pleaſe, to let me know, whether the ſame law is obſerved in both ſummonces, or, whether there be any difference in the form of words, and what that difference is, and why there is any.

CHAP.

CHAP. II.

The difference of the ſummonces of each term.

THAT you can already form a doubt of theſe matters is a great inſtance of your progreſs. It is moſt certain, that the exchequer is convened and held twice a year; the ſummonces, as I ſaid above, being firſt ſent out. You have rightly remembered the ſeſſion of each term; but obſerve, that the ſheriff's accompts are not paſſed, but only viewed in Eaſter-term; wherefore, ſcarcely any thing then tranſacted is reduced to writing; but the whole is reſerved for the other term, when every thing is carefully and regularly entered upon the great annual roll; but certain remembrances, which frequently happen, are wrote apart by the treaſurer's clerk; that the exchequer of that term being up, the majores may determine them; which would not be eaſily found, by reaſon of their infinite number, unleſs they were reduced into writing. Beſides what fermes the ſheriff pays in the treaſury, if afterwards he makes ſatisfaction for them, are wrote in the ſame line, and he is diſcharged; if not, his debt is diſtinctly placed on the under line, that how much of the ſum of that term is wanting may be known; and that he may immediately ſatisfy it at the will of thoſe who preſide. For each ſheriff is to pay a moiety of the ferme, which ariſes out of his county in a year, in that term. But you muſt know, that the form of words in thoſe ſummonces is not altered, unleſs it regards the term or place; if, for inſtance, the majores ſhould order the exchequer of Eaſter-term to be held at one place, and the exchequer of Michaelmas at another; yet the ſame words are made uſe of in both ſummonces. The entry of the excepted debts is different. For in the ſummonce made out againſt Eaſter-term, becauſe then that year is ſaid to begin, it is only entered, have ten of ſuch an one; and he ſhall not be diſcharged from this ſummonce unleſs he then pays or ſatisfies the ten. But when a ſummonce is to be made out as of Michaelmas term, when the ſame year is cloſed and ended, and it becomes an annual roll, ten others ſhall be added to the ten above-mentioned, or more, as the preſident (*a*) ſhall think proper; and it ſhall be ſaid; have (*b*)

(*a*) R. B. who makes the aſſeſſment.

(*b*) R. B. nine.

twenty of ſuch an one, tho' he paid ten (*a*) of this very ſame ſum in Eaſter-term; but now paying ten in money, and producing the tally for the ten already paid, he ſhall be diſcharged from his ſummonce: for it is ſaid in the ſummonces, have all theſe in money, and writs, and tallies. You muſt know beſides, that the ſummonce being made out, if a miſtake ſhall be found out, while it is correcting, it ought not to be cancelled by drawing a line under it, nor raſed out, becauſe it is a patent writing: but the miſtake ſhould rather be entirely obliterated, that no one may be able to perceive that any thing had been wrote; the reaſon of which, if you conſider with yourſelf, will eaſily occur.

S. When, as you ſay, it is a patent writing, and as ſuch delivered to the ſheriff, and remains a long time with him, and his officers, he alone is entruſted with the indemnity of the ſummonce, ſince he may without puniſhment blot out, alter, or omit (*b*) what he pleaſes, as the barons have no copy of it.

M. Perhaps he might, if he choſe it; but it would prove him a madman, to ſubject himſelf to ſuch great penalties of his own accord; eſpecially as he could not by this means diſcharge himſelf of any of the King's debts, and ſcarcely defer the payment of any of them. For all the debts for which ſummonces are made out, being entered on other rolls, are carefully preſerved; ſo that no one, not even with the ſheriff's aſſiſtance, can be diſcharged from his debt by this contrivance. But we find, as a caution againſt, and in order to prevent this ſcheme's taking effect, that copies are made of all the ſummonces by the archdeacon of Poictiers, now biſhop of Wincheſter; nor are the originals parted with, 'till copies of them are made and carefully corrected. When the ſummonce is read by the chancellor's clerk, upon the ſheriff's paſſing his accompt, the archdeacon's clerk inſpects the copy, and obſerves that he does not read wrong. But when in proceſs of time, the number of debtors greatly (*c*) increaſed, ſo that the length of one ſkin was

(*a*) R. B. ten *omitted*.
(*b*) R. B. or leſſen.
(*c*) R. B. inſtead of greatly, has a ſmall blank.

but

but juſt ſufficient to contain one ſummonce, this infinite and laborious work was ſubmitted to, and the original ſummonce alone was rejected as formerly. Thus you have, as briefly as poſſible, in what manner, and for what purpoſe the ſummonces are made out. Now we are to ſee, why they are made out; though this does in a great meaſure appear from what has been ſaid.

Why the ſummonces are made out.

THE illuſtrious Henry, King of England, is ſaid to be the ſecond of the Kings of this name, but is believed to be the firſt of the modern ones who tranſacted buſineſs from a virtuous principle: (*a*) for his whole thoughts were employed from the very beginning of his reign, upon deſtroying the rebels and enemies to peace, by many overthrows, and rivetting the advantages of tranquility, and allegiance in men's minds, by all manner of methods. As therefore fame has ſpread abroad, throughout all nations, his remarkable atchievements, it were unneceſſary in me to relate them: but there is one, which I cannot paſs by in ſilence, from which alone his ſingular integrity and piety, ſuch as were never heard of before, were confirmed. Yet this was not the act of a man, but of a pitying God, that he withſtood himſelf, that he withſtood the whole world, with an handful of men.

S. How a celebrated enterprize can be ſaid to withſtand itſelf, unleſs you make it appear, I cannot conceive.

M. Though this does not belong to my undertaking or deſign, yet calling to mind that magnanimous King, I am not able with peace of mind to omit them. You may ſee therefore how wonderfully that hero withſtood himſelf, againſt his own children, of his own fleſh, nay the only hopes and glory of his very ſoul, next to God; while they were infants, and as pliant as wax, by reaſon of their tender age, to be moulded into any form, and inclined to all movements of the mind, perverſe wretches as they were, ruined by bad advice, at laſt turned their hearts againſt even their own father, as againſt their common enemy; his ſon made thoſe who bore an inveteracy againſt his father, his domeſticks, and thoſe who were about him, entered into deſigns againſt him; ſaying, "Let us purſue him with his children and his "enemies, becauſe there is no one to protect him:" you may ſay they fulfilled the words of the prophet; "I have nouriſhed, educated, and "brought up my children, and lo they deſpiſe me." When the wife

(*a*) R. B. for *emitted*.

rages with cruelty againſt her huſband, children againſt their parent, domeſticks, without cauſe, againſt their maſter; would you not ſay, and with propriety too, that the huſband was rebelling againſt himſelf? But the greatneſs of the divine favour alone ſubdued this numerous multitude of enemies, and the Lord as it were fought for himſelf. The King ſoon gained ſuch an aſcendancy over almoſt all the rebels, that he confirmed himſelf much more ſecure upon the throne than before, from what one would have thought ſhould have weakened him.

For thoſe who conſpired againſt him, knew very well, that the club could not poſſibly be wreſted out of his Herculean hand, in all his virtue. After he had impriſoned his enemies, the abettors of the cruelties at that time, he ſpared them, by an unheard of compaſſion; inſomuch that few of them loſt their eſtates, but none were baniſhed, or executed. If you was to read of David's revenge on the deſtroyers of his ſon Abſalom, you would ſay he was by far the moſt mild: though it is written of him; "I have found a man after my own "heart." Notwithſtanding the King was remarkable in many inſtances, and might have revenged himſelf in the ſevereſt manner upon them; yet he choſe rather to ſpare, than puniſh, thoſe, whom he had conquered, that they might have the mortification to ſee his kingdom flouriſh, in ſpite of their teeth. Long live that glorious and happy (*a*) King, (*b*) and may he meet with forgiveneſs above, as he has forgiven. Long live his ingenuous offſpring, ſubjected to their father, and not unlike him: and as they are born to govern people, may they learn by their father's, and their own example, how glorious it is to ſpare the conquered, and ſubdue the rebellious. But let us proceed in the buſineſs we have undertaken. If you are deſirous of being more fully acquainted with theſe, and other his noble exploits, conſult, if you pleaſe, the little book before-mentioned. Peace therefore being reſtored, after the kingdom had been reduced to ſo ruinous a condition, the King ſtudied, how he might again bring about former times; and chooſing prudent and diſcreet men, he divided the kingdom into ſix parts, that choſen juſtices, whom we call itinerant juſtices, might ſurvey them, and reſtore to them their rights, which they were deprived of. Appointing therefore a proper number in each county, and doing full juſtice to thoſe, who thought themſelves injured, they prevented the poor people's trouble, and expence. But it was neceſſary likewiſe to puniſh their different digreſſions, and for the moſt part, by different methods, according to the nature of the offences; as for inſtance, ſome

(*a*) R. B. happy *omitted.* (*b*) R. B. and *omitted.*

were

were to ſuffer corporal, ſome pecuniary puniſhment. Beſides, the pecuniary puniſhments of offenders, are carefully entered on the rolls of the itinerant juſtices; and are delivered to the treaſurer before them all, when the exchequer ſits upon buſineſs, but the juſtices muſt take care, to deliver the rolls correct, (*a*) and placed in order to the treaſurer; for the juſtices themſelves cannot alter a ſingle iota, after they are delivered, not even a thing to which they all agree.

S. This is aſtoniſhing, ſince they are the compoſers of their writings, and as no advantage can be had of them but by their induſtry or trouble, that they cannot alter their own writing, though they unanimouſly agree to it.

M. As length of time has ſettled correctneſs, and they know the eſtabliſhed law, they would charge themſelves; for the ſum proffered is required either of the debtors themſelves, if they are ſentenced in it, or of the juſtices; as for example, if they ſhould ſet down any one ſentenced in the payment of twenty pounds on the roll, and it ſhould be recorded that they have delivered the warrant to the treaſurer, that he is bound only in ten; the juſtices themſelves muſt make ſatisfaction for the reſidue; becauſe they cannot recall their writing, deliberately made and corrected, after it is delivered. But the treaſurer cauſes the debts on the rolls he has received, to be carefully and diſtinctly entered according to each county, in the great annual roll, together with the cauſes; the juſtices names being prefixed, as was juſt now ſaid; that the reaſonableneſs of the impoſitions may appear. The ſummonces therefore for theſe are made out thus; "Such a ſum of money of "ſuch an one, for ſuch or ſuch fines," as the preſidents ſhall before hand have taxed the debts. I apprehend you have heard as much as is neceſſary to know for what, how, and wherefore the ſummonces are made out: now let us paſs to the ſheriff's accompts. But you muſt be diligent, careful, and attentive to what follows, becauſe the more excellent knowledge of the exchequer conſiſts herein, as I ſaid at firſt.

CHAP. III.

A circumſtantial detail of the ſheriff's accompts.

THerefore all the ſheriffs and bailiffs, to whom the ſummonces are directed, are compelled by the ſame neceſſity of law, that is, by the authority of the royal command, to meet at the ſet day, and

(*a*) R. B. and placed in order *omitted*.

appointed

appointed place, to ſatisfy the debtors; and that it may appear more evident to you, carefully inſpect the form of the ſummonce; for it ſays; "See as you love yourſelf, and all yours, that you be then there at the "exchequer, and have with you whatever you owe of old and new "ferme, and the debts ſubſcribed." Obſerve therefore, becauſe two things are mentioned, which are applicable to the two following ones; for that part of it, "ſee as you love yourſelf," refers to, "be then "there;" but that part of it, "and as you love all yours," ſeems to refer to this, "and have with you (*a*) the debts ſubſcribed:" and if it is clearly ſaid; in your abſence, you whoever you are, take the ſummonce, he could not be excuſed, unleſs for neceſſary reaſons determined by law; and it would have ſubjected you to a penalty; for you would by this means have appeared to have deſpiſed the King's command, and to have acted indecently againſt the King's majeſty. If being cited upon the King's buſineſs, in which you have engaged yourſelf, you do not come yourſelf, nor ſend any one to make an excuſe for you, and are thereby the occaſion of the debts, which are ſubſcribed, not being paid; then the other debts for which you was ſummoned, ſhall be deducted out of the ferme you was to pay: and the ferme ſhall be made up out of your chattels, and the rents of your eſtates; and you, in the mean time, if the barons ſo order it, kept in ſome ſafe place, within the liberty of the priſon. When therefore the ſummonce is ſent out and received by the ſheriff, he muſt come at the appointed day, and preſent himſelf before the preſident, if he ſhall happen to be there, or the treaſurer, if the preſident is abſent. Then having ſaluted the majores he is free for that day, but is to return on the morrow, and ſo every day to the exchequer. If he ſhould happen neither to come, nor ſend an excuſe before hand, he ſhall be fined in one hundred ſhillings of ſilver for the firſt day, for every county; the next day, in ten pounds of ſilver; the third, one hundred in like manner, as I have been told by my predeceſſors: whatever moveables he is in poſſeſſion of ſhall be at the King's diſpoſal, but the fourth, becauſe now he has proved his contempt of the royal majeſty, not only his eſtate, but his perſon alſo ſhall be ſubject to the royal mercy. Yet ſome are of opinion, that pecuniary puniſhments alone are ſufficient for any ſum; as for inſtance, thoſe who are abſent ſhould be fined the firſt day in one hundred ſhillings; the ſecond in the like ſum of one hundred ſhillings;

(*a*) R. B. have there.

and

and that thoſe who are abſent ſhould be thus puniſhed in ſingle hundreds, for each day. I do not differ from them, provided the offenders will agree with me in this; that it is very likely the King was deſirous of having this ſort of puniſhment inflicted, ſince his peculiar goodneſs is ſlow to puniſh, and ſwift to reward.

S. It is imprudent and indecent in a hearer to anticipate the diſcourſe before it is intentionally finiſhed; I have therefore kept to myſelf what gave me inward uneaſineſs: for you ſaid, if the ſheriff ſhould prevent the ſubſcribed debts being ſatisfied, that they were to be deducted out of the ferme he was to pay. If therefore the ſheriff ſhould have expended the whole he was to pay here, by virtue of the King's writs, or in his buſineſs, or otherwiſe; what is to be done?

M. When he has diſburſed the ferme of the county by virtue of the King's command, or in the court chamber, or in his buſineſs, or any other way, if he ſhould fail in payment of the debts, he is to be detained by his ſurety, where-ever the majores ſhall decree, until he makes ſatisfaction for them, as he was to do for the ferme.

S. When the ſheriff is cited, and does not come, nor makes an excuſe, he loſes his moveable, (*a*) as well as immoveable eſtates, and alſo ſuffers a very heavy corporal puniſhment, unleſs he can prove a neceſſary, not a voluntary, or wilful abſence. I deſire you will be pleaſed to inform me, what reaſons he may offer ſufficient to excuſe his abſence, upon his being ſummoned.

CHAP. IV.

What ſhall indemnify the ſheriffs for their abſence.

M. THERE are a great many excuſes which diſpenſe with the ſheriff's abſence, but ſo as the occaſion, or excuſe being out of the queſtion, he do ſend the King's money he has collected, by lawful men, on the appointed day; who giving the preſident the letters of excuſe, and alledging neceſſary reaſons for their maſter's abſence, do confirm them, even upon their corporal oath, if the preſident ſhall think proper to require it. But if the ſheriff, or any other officer, who has been cited, being detained by illneſs, cannot come; he adds to his letters of excuſe, directed to the exchequer; "And becauſe I cannot "come; I ſend you theſe my ſervants N and N, to ſupply my place,

(*a*) R. B. as well as immoveable eſtates, and alſo *omitted*.

"and

" and do what is my duty or office to do, confirming hereby what-
" ever they ſhall ſo do."

But he who makes the excuſe muſt take care, that one or both of thoſe whom he ſends, be an officer, or other layman allied to him by blood, and otherwiſe, to whoſe integrity or diſcretion he need not fear truſting himſelf and his: for mere clerks ſhould not be admitted for this purpoſe; becauſe if they act amiſs, they ought not to be apprehended for the money or accompts. But if the ſheriff who is cited, happens to be abſent, not detained by illneſs, but prevented by ſome other reaſon, perhaps he may be diſcharged from the uſual puniſhment; but no one ſhall be admitted in his ſtead to compleat his accompt, except his eldeſt ſon; nor his general attorney, though he ſhould mention in his writ, that he will ratify what ſuch or ſuch an one ſhall do in his ſtead; but only by the authority of the King's, or preſident's command, if the King ſhould be abſent, he may ſubſtitute (*a*) another to compleat (*b*) his accompt: yet if he tranſacts another branch of buſineſs at the exchequer, aſſigned him by the lord the King, he muſt name one preſent, in his own proper perſon, who may, and ought to carry on the buſineſs of the abſent ſheriff, according to what was ſaid above. But the King's, or preſident's writ of excuſing the ſheriff, is to be kept as an evidence of the tranſaction in the marſhal's forule mentioned above. If the ſheriff, otherwiſe neceſſary to the King, ſhall be called out of the kingdom by him, or be diſpoſed to go abroad, having obtained leave, about his own private affairs, he muſt firſt wait on the preſident, and *vivâ voce*, depute in his room what lawful officer he thinks proper; which being done, when he is abſent, he ſhall not be obliged either to ſend his writ, or excuſe his abſence. But upon the ſheriff's excuſing himſelf by reaſon of illneſs, when it was neceſſary for him to enter his accompts upon the annual roll, it ſhall be in this manner; " William, ſheriff of " London, Robert, his ſon, in his ſtead, accompts for the ferme of " London." But if another is ſubſtituted in his room by the King's command, or he himſelf has appointed *vivâ voce*, as I ſaid before, ſome one for him before the preſident, it is to be entered throughout, as if he himſelf had accompted in his own proper perſon.

S. What, was illneſs alone a ſufficient excuſe to indemnify the abſence of one who was cited?

M. It was; for there are many at the exchequer; but this is more uſed, as well in law ſuits, as in other eccleſiaſtical and law buſineſs. Beſides, you ſhould recollect what has gone before, to underſtand that

(*a*) R. B. another *omitted*. (*b*) R. B. to compleat *omitted*.

no

no excuſe can prevail, ſo as to juſtify his detaining the King's money he has collected out of the county, or his not ſending to the exchequer on the appointed day. If therefore he ſends the money before hand, he may be excuſed, as paid by reaſon of illneſs. So if his eldeſt ſon, whom he has declared his heir, is thought to be at the point of death, he ſhall be excuſed. So if his wife ſhall be in danger from the peril of child-birth, or dying from any other cauſe, becauſe ſhe is part of his own fleſh, he is excuſed. So if his lord, who is commonly called his leige, (that is, to whom alone he is (*a*) in ſuch a manner bound by the lordſhip, that he owes no one any thing in prejudice of him, the King only excepted,) calls upon him to attend him ſummoned to a court of juſtice, concerning his whole inheritance, or the greateſt part of it, or upon any other account, which is likely to damnify his eſtate, or body, he may ſtand excuſed, in caſe the lord will not excuſe him, nor otherwiſe decline the ſuit. If the ſame lord ſolicits another upon the ſame occaſion, and he can defer the day without any great damage, if he calls upon his vaſſal, the lord the King's ſheriff, he is not bound to go; becauſe he cannot in this caſe be excuſed at the exchequer. So if his lord being dangerouſly ill, is deſirous of making his will, in the preſence of his people, and for this purpoſe calls upon him, together with other of his faithful ſervants, he ſhall be excuſed. Alſo if his lord, or his wife, or ſon ſhould die, and he is employed in performing the funeral obſequies, he ought to be excuſed. And there are many more excuſes, for the neceſſary abſence of the ſheriffs, determined by the laws, which we do not reject or exclude, but freely admit of, when they are eſteemed ſufficient by the majores; I have mentioned thoſe inſtances, which at preſent occurred to my memory, as happening more frequently.

S. It ſeems to me from what you have ſaid, that a knight, or any other diſcreet perſon, may be appointed ſheriff or bailiff, by the King, though he has nothing from him, but ſolely from others.

M. This prerogative of public dignity is owing to power, as every other is, whomever any man officiates for or ſerves, if the King ſhall think him neceſſary, he may be freely taken, and appointed to execute the royal commands.

S. I perceive from this, that what is proverbially ſaid is true; Do you not know that Kings have long arms? But now, if you pleaſe, purſue the ſheriff's accompts, for I am wholly attentive upon them, according to your advice; being ſenſible, that the excellent knowledge of the exchequer is, as you ſaid before, required in them.

(*a*) R. B. in ſuch a manner *omitted.*

M. I am glad to find you have not forgot what I mentioned in the outſet; which I own has added ſpirits to my almoſt jaded pen. But you are to know, that the ſheriff ſhould not accompt before the examination is made, and the debts for which he was ſummoned paid: but when he is come, and is accompting, the other ſheriffs are excluded; and he attends alone with his officers to anſwer ſuch queſtions he is interrogated to. But he muſt take care that the debtors of his county, have notice that day, or the preceding one, of the time of his paſſing his accompts; or that the cryer proclaim about the exchequer chamber, or ſtreet, or town, that he is at ſuch or ſuch a time, paſſing his accompts. Then the treaſurer, who as is ſaid, ſeems to oppoſe him, by reaſon of his office, aſks him in the preſence, and hearing of all, whether he is ready to give in his accompt; who anſwering, I am ready, the treaſurer charges him, tell me then firſt, whether the alms, tithes, ſettled liveries, *terræ datæ*, or lands granted away, are the ſame this year, as laſt. If he anſwers they are the ſame; then the treaſurer's clerk carefully purſues the laſt year's roll, in entring theſe ſettled items, under the inſpection of the treaſurer, leſt the ſcribe ſhould happen to make a miſtake. And as I remember, I ſpoke largely of the method of entring them, in the title of the treaſurer's clerk's duty, I ſhall now omit ſaying any more on that ſubject.

S. Be pleaſed therefore, to ſpeak of what you ſo long deferred to the ſheriff's accompts; namely, how it happens, that ſome lands are given by the King in blank, ſome by tale; for this has puzzled me from the very beginning.

M. I thought it would have appeared plain enough to you, from what had been ſaid, how ſome fermes are paid in blank, ſome by tale; the ferme is paid in blank, when it is blanched after being tried.

CHAP. V.

Why ſome eſtates are paid in blank, ſome by tale.

THE author of this cuſtom, and the reaſon of it's inſtitution, has been already ſhewn. We ſay the ferme is paid by tale, when the counting only, without trial, is ſufficient. When therefore the King grants any one, any eſtate, together with the hundred, or fines, which

which ariſe out of it, they ſay that eſtate is granted to him in blank: but when he only gives the eſtate, reſerving the hundred for himſelf, wherefore the ferme is ſaid to be blanched, not ſettling the hundred or blank, it is ſaid to be given by tale. But he, to whom it is granted, muſt produce at the exchequer, the King's writ, or charter, concerning the eſtate granted, in Michaelmas-term, that it may be placed to the ſheriff's accompt; otherwiſe it will not be entered on the great annual roll, or placed to the ſheriff's accompt; but it muſt be entered thus: at the top of the line, next after the ſettled alms, and tithes, and liveries of both ſorts, to ſuch an one, twenty pounds blank, at ſuch a place, and to ſuch an one, twenty pounds by tale, in ſuch a place, in *terræ datæ*, or lands granted away. Obſerve alſo, if you happen to find among the *terræ datæ*, or lands granted away, to ſuch or ſuch an one, ten pounds blank, or by tale, in ſuch a place, by the King's appointment; when he who enjoyed the beſtowed, or appointed bounty, is dead, his wife, nor his children, nor any other can lay any claim to it, in his name, by virtue of the appointment, without the King's leave; ſo in like manner, if it be ſaid, ten pounds to ſuch an one, during the King's pleaſure.

CHAP. VI.

What the ſheriff's ſtated accompts are; namely, alms, tithes, and liveries of each ſort, and *terræ datæ*, or lands granted away.

S. WHAT do you mean, when you ſay liveries of each ſort?

M. There are ſome liveries for the poor; when the King allows any one a penny, two pence, or more a day, for his food and raiment, merely out of charity. Some for his ſervants, who receive them as wages; ſuch as the palace and chappel keepers, the royal muſicians, wolf-catchers, (*a*) and the like. Theſe are the different ſorts of liveries, which are paid on different accounts, yet are reckoned ſettled liveries. And obſerve, that though the King may beſtow theſe liveries, on any indigent objects; yet formerly, they were uſually granted to thoſe, who

(*a*) The hunter of the wolves was uſually in the King's pay in former times in Worceſterſhire, as appears in the inſtances annexed. That is to ſay, in the thirteenth year of King Henry the ſecond, and three ſhillings to the hunter who caught the wolves in the foreſt. Great roll, 13 H. 2. Roll. 5. a. Worceſterſhire. In the ſeventeenth year of the ſame King; and three ſhillings to the hunter who caught the wolves. Great roll, 17 H. 2. Roll. 6. b. Worceſterſhire. In the twenty-ſeventh of his reign; and three ſhillings to the hunter who caught the wolves. Great roll, 27 H. 2. Roll. 2. a. Worceſterſhire. And in the fifth year of King John; and three ſhillings to the hunter who caught the wolves. Great roll, 5 J. Roll. 4. b. Worceſterſhire. There is no mention made, or very ſeldom of this hunter upon the rolls of King Henry the third's time, or after, as I remember.

ſerving at court, when they had no income, fell ſick, and rendered uſeleſs through former fatigue; and this by an ancient cuſtom. Theſe particulars being regularly gone through, the treaſurer aſks the ſheriff, whether he has laid out any of the ferme of the county, by virtue of the King's writs, more than the ſettled ſums; then he delivers in order the King's writs, which have been ſent him, to the chancellor's clerk, who after he has read them in public, gives them the treaſurer, to apply proper words, for entring them on his roll, according to the form made uſe of in writs. For he, as I ſaid, dictates, and the others who write, take it from him; when this is done, the ſheriff ſhews, whether he has laid out any of that with which he is to be charged in his accompt, not by the King's writs, but by the ſettled law of the exchequer; ſuch as the liveries of the King's approvers, and alſo what is expended in compleating juſtice, and it's judgments.

CHAP. VII.

What is to be charged to the accompts, by the ſole cuſtom of the exchequer, that is, without writ.

BUT obſerve, that juſtice is here uſually called the execution of the law (*a*) awarded againſt men: but judgments, the laws of red-hot iron or water. So that the liveries of approvers were made on this account. By reaſon of the vaſt riches of this kingdom, and the natural drunkenneſs of the inhabitants, which is always the conſequence of luxury, and debauchery, open and ſecret thefts, and robberies, were frequently committed in it; as alſo murders, and diverſe ſorts of villainies, and wickedneſs, occaſioned by the encouragement of the whore-maſters, and adulterers. So that thoſe, who ſubjected themſelves to their own wills, dared attempt any thing. But when any notorious offender was apprehended by the King's officers, who were intruſted with the peace of the kingdom, they agreed, and ſometimes the judges, by reaſon of the infinite number of villains, and in order to clear the land of theſe pernicious vermin, and perverſe wretches, that if any one, upon confeſſion of any of theſe crimes, would impeach his accomplices in the ſame villainy, and be able to prove the crime, laid to any of their charges, by duel, he was not to ſuffer death, or any corporal puniſhment, but to be baniſhed from all parts of the kingdom, and ſwear that he would never return into it again. But ſome, it being before

(*a*) R. B. of the law *omitted.*

agreed

agreed upon by the judges, though they made out their charge, ſhould not however be abſolutely diſcharged, but eſcaping hanging, or ſome ſuch infamous kind of death, which they deſerved from their own confeſſion, were puniſhed by having their privities cut off, and became a diſmal ſpectacle to the world, to deter others from the like raſh attempts, by their dreadful and exemplary ſufferings. As therefore he may ſave his own life, by a charge and proof of the guilt of the ſame crime; and becauſe whatever promotes the peace of the kingdom, is without doubt, of advantage to the King, he is called the King's approver. He receives a penny every day for victuals, out of the treaſury, from the day he undertakes the proof, 'till he has fulfilled his engagement or promiſe, or 'till he fails in it, which the ſheriff is allowed in his accompts, by the ſole cuſtom of the exchequer. But if the approver (*a*) is ordered to be conveyed to other places, that he may more conveniently perform his promiſe, at the meeting of the juſtices there, or happening to fail therein, ſuffer the puniſhment his wickedneſs deſerves, ſo much only as the ſheriff found for the hire of the carriages thither, and maintaining him in victuals, (*b*) ſhall be allowed him in his accompt by the cuſtom; but not the reſt, except by the King's writ. Beſides, there are many in ſome counties, who are ſo revengeful againſt the condemned criminals, for ſake of their eſtates; that they hang ſome, diſmember ſome, or otherwiſe puniſh them, according to the heinouſneſs of the crime committed. And there are alſo ſome counties that will not puniſh them, when condemned; without receiving money by tale, out of the treaſury. Whatever therefore the ſheriff reckons for theſe judgments, and for yielding up juſtice, for the ſake of deteſtable avarice, by men who undertake this buſineſs, for the effuſion of blood, ſhall be allowed in his accompt, by the cuſtom of the exchequer, that is, not by the King's writ. And there is another item, which ſhould be only allowed in the ſheriff's accompt, by the cuſtom: when the King's treaſure is conveyed from place to place, by the advice of the majores, it muſt have carriages, and ſuch ſort of trifles; the ſheriff finds what is proper out of his ferme, by order of the treaſurer, chamberlains, or their officers, ſent for that purpoſe, and this is allowed in the ſheriffs accompt without writ; but upon his oath before the majores, the treaſurer, or any of the aforeſaid officers, who ordered it to be done; and then it is entered on the roll, this or that, by ſuch or ſuch an one, in ſuch or ſuch neceſſaries of the treaſury. And if a

(*a*) R. B. is ſent to.

(*b*) R. B. by a daily allowance.

royal

royal fiſh, a turbot, or whale, or any ſuch ſort is caught, what is diſburſed by the ſheriff in ſalting them, or any other neceſſary ſervices, is allowed in his accompt, without writ. Alſo what is expended in cultivating the King's demeſne vineyards, and gathering the fruit, or in ſupplying veſſels, or other neceſſaries, is allowed in the accompt without writ upon the ſheriff's oath: of the nature of which oath, and how it is to be taken, I ſhall ſpeak hereafter, if I meet with it again, or oftener. Theſe are what I at preſent recollect, are to be allowed in the ſheriff's accompt, by cuſtom only. Now I will proceed to what belongs to the accompt of the body of the county.

CHAP. VIII.

In what order the ſheriff is to be charged with what he lays out in his buſineſs, by the King's writ, which has no fixed number.

IT ſometimes happens, that the King by his writ, commands the ſheriff to provide out of his ferme neceſſaries for the ſtrength of his caſtles, or the building of edifices, and the like, by the view of two or three men, whoſe names are expreſſed in the writ; and adds at the end a few words, ſuch as are very neceſſary for the accomptants; and it ſhall be allowed in your accompts at the exchequer. When therefore the ſheriff is paſſing his accompts, thoſe alſo attend who had the care of the buſineſs, and having taken an oath in public, that they received the mentioned ſum, for the King's uſe, in that buſineſs; the King's writ is made out, atteſted by the preſident, (*a*) and another, whom he orders, in which the ſum they ſwear to, and the names of thoſe, who had the management of the buſineſs, are inſerted; then the (*b*) ſheriff will be allowed it in his accompts. If the King's buſineſs be finiſhed by the diſburſement of this money, that firſt writ for providing the neceſſaries, which was directed to the ſheriff, and this laſt which is made out at the exchequer, are preſerved in the marſhal's forule of compleated accompts. But if any of the buſineſs remains undone, the ſheriff is to keep by him the writ directed to him, 'till that buſineſs is finiſhed; that by this means, he may have an authority to provide what is neceſſary for the completion of it; but the other is to be kept in the forule I ſpoke of. For when it is entered upon the annual roll; one

(*a*) B. B. and *omitted.*

(*b*) R. B. ſheriff *omitted.*

hundred

hundred pounds for ſuch buſineſs; it ought of courſe to appear in the oppoſite column, that it was by the King's writ, and the view of ſuch perſons; if there is no (*a*) King's writ, containing the quantity, and the names of thoſe, who had the management of the buſineſs, the contents of the roll mentioning the King's writ ſeems to be falſe.

S. I am ſo well ſatisfied in regard to thoſe words, that I will of my own accord omit the inquiries I was going to make about them; for when the King's writ is brought to the ſheriff for finding neceſſaries for this or that buſineſs, and this is added; and it ſhall be allowed you at the exchequer in your accompts: or thus, provide them out of your ferme; which is almoſt the ſame authority, it ſeemed needleſs for him to be deſirous of another writ; nor did I underſtand, that the quantity was to be expreſſed in that writ, that it might by this means correſpond with the authentic annual roll, in the ſame form of words.

CHAP. IX.

That no one is diſcharged from a debt by the King's writ, not expreſſing the quantity, tho' it puts an end to the cauſe.

M. YOU muſt alſo know, that the nature of the buſineſs of the exchequer is different from other buſineſs; for it is commonly ſaid, that what is expreſſed, does harm, and that what is not expreſſed, does no harm: but here what is expreſſed is of ſervice, and what is not expreſſed, confutes: for example; if any one is bound to the King in one hundred pounds, and brings his writ to the exchequer to be quit of the debt he owes him, and adds, of the whole debt, and alſo mentions the cauſe, but not the quantity; for this reaſon he will not be diſcharged, but hereby rather occaſion a delay until he is ſummoned again. For it ought to be entered on the roll, In pardons to ſuch an one, one hundred pounds by the King's writ; but becauſe he does not appear to be wholly diſcharged, it not being as yet ſo expreſſed in the writ, he will be put to much trouble in inquiring how he muſt be diſcharged: ſo that what is not expreſſed confutes in this caſe.

S. With deference to the preſident and officers, they do not ſeem to have complyed with the King's command in every reſpect; nor is he diſcharged whom he commanded ſo to be, though the cauſe why he was bound to him was added.

M. With deference, you mean, to the ſubtilty of your ſcrupulous conſcience. You ought indeed to have known, that ignorance does not

(*a*) B. B. no *omitted*.

avail

avail him, who is totally unacquainted with the law. He therefore who is bound to the King, muſt make diligent inquiry, how he may be diſcharged, that is, according to the ſettled rule, concerning theſe matters; which if he does not do, not the preſident, but he himſelf is chargeable; for neither can the preſident alter ſo much as a ſingle tittle in the writ which he has brought him from the King: ſince therefore he has not his quietus by this means, he muſt haſten, to do what is expedient for the obtaining it.

S. I perceive that this is obſerved chiefly on this account, that the entries on the roll may not allow it. But now be pleaſed to proceed in what remains.

M. When therefore all are taken notice of, which are to be allowed in the accompts as ſettled, either by the King's writs, or by the cuſtom of the exchequer, the accompt is thus left as it were incompleat, and they turn to other matters; for he is neither entered diſcharged nor indebted on the annual roll, whereby the accompts are ſaid to be compleat, until he has made ſatisfaction for every item contained in the ſummonce; the reaſon of which will ſufficiently appear from what follows; after the accompt of the body of the county, that is, of the chief ferme, which as was ſaid before, is left imperfect, 'till it is ended; the accompt of the ancient ferme of the county, that is, the laſt year's, is placed next, after a ſmall diſtance; but yet in ſuch a manner, that if the ſheriff, who then officiated, be changed, or if the ſame be continued this year, he make ſatisfaction out of the old ferme, before he begins his accompt of the new; and he ſhall firſt be carefully and diſtinctly entered for the old, and then the new. You are to know therefore, that the changed ſheriff is to be ſummoned for the old ferme, as any other debtor; not on his own accompt, but on the general one; becauſe the payment of ferme ſhould not be delayed; but for the debt of old ferme, which he is bound to pay, who hitherto officiates, the ſummonce may be made out in this form of words; "Whatever "you owe of old or new ferme." Concerning which enough has been ſaid above, in the title, Summonces.

CHAP. X.

Of lapſes and ſeizures, which are generally called purpreſtures, and eſcheats.

NEXT to theſe (making a ſpace of about ſix lines) follows the accompt of lapſes and ſeizures, which are more generally called purpreſtures and eſcheats. PURPRESTURES AND ESCHEATS, is prefixed

fixed in the middle of the line in capitals, and is thus entered at the top of the under one; The ſame ſheriff accompts for the ferme of purpreſtures and eſcheats; namely, ten pounds for this, and twenty pounds for that, and ſo on, as the form was before, in the annual ſum of one hundred pounds, from the roll of the itinerant juſtices. Then at the end of the ſame line where the ſum is, is entered, twenty pounds in the treaſury in ſo many tallies, and he owes ſo many twenty pounds; or, he has delivered it into the treaſury, and has his quietus. But you will comprehend the method of entring them better by occular proof and demonſtration, than by any deſcriptive argument of words.

S. I cannot comprehend, without you ſpeak more fully on the ſubject, what theſe lapſes or ſeizure are, and wherefore they accrue to the treaſury.

M. It ſometimes happens through the ſheriff's negligence, or his officers, or by a long continuance of war, whereby thoſe who lived near the eſtates appropriated to the crown, uſurped part of them, and annexed them to their own poſſeſſions. But when the itinerant juſtices, by the oath of lawful men, diſcovered them, they rated them ſeparately from the ferme of the county, and delivered them to the ſheriff to be anſwered for ſeparately; and theſe are called purpreſtures or ſeizures; which when they are diſcovered, are taken, as was ſaid, from the poſſeſſors of them, and hence fall to the treaſury. But if he, from whom the ſeizure is taken, committed the fact, he ſhall at the ſame time be puniſhed by a very heavy fine, unleſs the King thinks proper to forgive it him; if he did not commit the fact, but is his heir, the recalling of the eſtate is held ſufficient puniſhment. From which indeed, as from many other inſtances, the King's compaſſion is proved; ſince ſo enormous an offence of the father, is not puniſhed in the ſon, who had enriched himſelf at the expence of the public wealth, even to the time of taking of the inquiſition. Eſcheats (*a*) are generally termed, what upon the death of thoſe, who hold of the King in capite, * or as his immediate tenants, when there is no heir by blood, falls again into the treaſury. But the accompts of theſe are made up together with the purpreſtures, and entered in the ſame manner; but yet ſo as each of

(*a*) That is called excheat or eſcheat, which falls into the lord's hands, ſuppoſe the King's: for inſtance; the ſame Roger [de Stutevill, ſheriff], accompts for forty ſhillings for the ſale of two houſes of Baenborough, which had fell into the King's hands. Great roll, 31 H. 2. Roll. 10. b. Northumberland.

* *This tenure with its appendixes, as wardſhip, &c. are all become obſolete and uſeleſs, by the act of tenures*, 12 *Car.* 2. c. 24.

their names be regularly inſerted. When a parent, a knight, or King's officer, tenant in capite, ſhall die, leaving children, the eldeſt of whom is under age, his rents return to the treaſury; but theſe ſort are not called eſcheats only, but eſcheats with the heir; whence neither is the heir deprived of his inheritance, nor the inheritance of him; (*a*) but being put under the guardianſhip of the King, together with the inheritance during his minority, as well he as the reſt of the children, receive neceſſaries out of the inheritance, by the King's officers, but the other profits of it fall to the King's uſe. Theſe accompts are made up ſeparately; becauſe they are due to the treaſury, not by a perpetual, but by a certain temporary right. For when the heir, now under age, arrives to his full age, and knows how to diſpoſe of for himſelf and his, what is due to him by paternal right, he ſhall receive it of the King's bounty; ſome gratis, that is, ſolely by the prince's favour; ſome upon the promiſe of a certain ſum of money; which accompt, when made up, muſt be entered on the annual roll; ſuch or ſuch an one accompts for one hundred pounds for the relief of his father's land; ſo much in the treaſury, and he owes ſo much: but the accompt is not continued upon the annual roll; ſince it returns no more to the treaſury. But while it is in the King's hand, the entry of it on the annual roll muſt be thus; ſuch a ſheriff accompts for the ferme of ſuch an honour, if it is a barony; ſo much in the treaſury; and ſo much for the charge of ſuch an one's children, by the King's writ; which is there done at the exchequer by cuſtom; and owes ſo much; or, and has his quietus. But if the poſſeſſion is leſs, as if it be one, or two, or three eſtates, it ſhall be entered thus; ſuch a ſheriff, or ſuch an one, to whom the King has committed the care of the ſame eſtate, accompts for the ferme of ſuch an one's land, belonging to ſuch an one, which the King has in his hands, or which is in the King's hands, with the heir; ſo much in the treaſury; and he owes ſo much; or, and he has his quietus. Obſerve beſides, that as long as ſuch an honour or eſtate was in the King's hands, with the heir, all alms, and liveries of the indigent, ſettled by the former lords, merely out of charity, were faithfully paid to thoſe, to whom they were due, and were allowed in the guardian's accompt at the exchequer: but the liveries of the ſervants, unleſs neceſſary for the performance of ſome duties to their lords, and therefore inſtituted, were paid voluntarily, while the King was in poſſeſſion. But when the inheritance deſcended to the heir, he ought to

(*a*) R. B. but *omitted*.

purſue

purſue his father's ſteps; by paying them as long as they lived what his father allowed them in his life-time; and then make uſe of their ſervices or not, (*a*) as he thought proper.

S. You ſaid, if I remember rightly, that if any one, holding of the King in capite, ſhould happen to die, and leave his heir under age, who being ſo left, ſhould attain his full age, ſome receive gratis, ſome upon promiſe of a ſum of money, from the King, what is due to them. Which ſo paid you call a relief. Tell me therefore, whether the like ſum is demanded, for a relief out of every eſtate, which is held of the King in capite, or whether a different ſum, and if ſo, why?

M. I find you are providing weapons for your own deſtruction; for by raiſing conjectures about what I have ſaid, you teize me with your ſubtle inquiries. You muſt know, that a different ſum is paid for the reliefs which are due to the King, according to the different conditions of the poſſeſſors: for ſome hold of the King in capite, lands that belong to the crown; namely, great or ſmall baronies; if therefore, the father, poſſeſſor of ſuch lands, died, leaving an heir, at man's eſtate, he is not to ſatisfy the King for them, according to the ſettled ſum, but juſt as he can prevail on his majeſty. If the heir is under age, he muſt wait his full age in ward; but then he ſhall either gratis, as I ſaid, as one of full age, or according to the King's pleaſure, enjoy his paternal inheritance: but if any one dies, holding a knight's fee of the King, not by reaſon of the royal crown, but rather by reaſon of ſome barony; which, in either caſe, falls into the King's hands; as does a biſhoprick during the vacancy of the ſee; the heir of the deceaſed, if of full age, ſhall pay one hundred ſhillings for a knight's fee, ten pounds for two, and ſo on, according to the number of knights, that were due to the lord, before the inheritance deſcended to the treaſury. If the heir is left under age, the profits of the inheritance, by reaſon of the guardianſhip, during his non-age, fall to the treaſury, as has been ſaid: the heir, left by his father, being of age, pays one hundred ſhillings for each knight's fee, or leſs, that is fifty ſhillings, if he poſſeſſes half a knight's fee, and ſo on. You know, you cannot again demand a relief of him, whom you have had under your guardianſhip ſome years, and the profits of his poſſeſſion, when he arrives at his full age.

S. Let the law judge of this for the pupils, according to it's ſerious determination of the matter.

(*a*) B. B. or not *omitted*.

M. So ſay I; but let us proceed in our deſign. There is likewiſe a third ſort of lapſes, or eſcheats, which belong to the treaſury for ever. When any one of the King's tenants in capite, conſcious to himſelf, of having committed a crime, whether he is charged with it or not (*b*), leaving every thing behind him, flies for his life: or if charged with it, is convicted, or confeſſes the fact, he forfeits his land, as well as his life; every thing that belonged to him, or was his right, is inſtantly confiſcated, and the ſheriff pays all the rents annually, at the treaſury for ever, and the produce of the ſale of their moveable effects is the King's. (*c*) In like manner, if a man of whatever condition (*d*) he be, or the ſlave, or freeman of whatever lord, through fear of the ſtricter aſſize, which the King ordained for criminals, ſhould fly from his manſion, and not ſurrender himſelf to juſtice, within the time (*e*) ſettled and fixed by law, nor excuſe himſelf; or if, being ſuſpected, and afterwards taken, by the hue and cry of the neighbourhood made after him, the criminal ſhall ſtand convicted of the crime, by the ſettled law of aſſize; all his moveables become the property of the treaſury, but the immoveables of their lords. The value of the moveables is brought to the treaſury by the ſheriff, and is thus entered on the annual roll; the ſame ſheriff accompts for the goods of fugitives, or of thoſe who are maimed, by the aſſize of ſuch a place; namely, five for ſuch an one, ten for ſuch an one, and ſo on throughout, mentioning their names, and the ſums that ariſe out of each of their chattels; but the ſum total is put laſt; and about the end of the ſame line, in which the ſum is wrote, is entered forty pounds in the treaſury, in ſo many or ſo many tallies, and he owes ten pounds, or, and he has his quietus. Theſe, brother, are what I ſaid the ſheriff brought to the exchequer, though no ſummonce preceded them. So a treaſure dug out of the earth, or otherwiſe found: ſo alſo when any one who has a lay eſtate, or citizen who deals in public uſury; if he dies inteſtate, or not having made thoſe ſatisfaction, whom he has defrauded, ſhall have made a will of his ill-gotten effects, yet not a diſtribution of them, but reſerved them to himſelf; becauſe he thus broods over his effects, he is not looked upon to have parted with the poſſeſſion of them, and therefore his money and all his moveables are immdiately confiſcated; and they are

(*b*) R. B. not *omitted.*

(*c*) B. B. is the King's *omitted.*

(*d*) R. B. a man of whatever condition, *omitted.*

(*e*) R. B. time *omitted.*

brought,

brought, though not mentioned in the ſummonce, by the officers to the treaſury; but the heir of the deceaſed enjoys the paternal eſtate, and his immoveables ſcarcely bequeathed to him.

S. An important queſtion puzzles me in regard to what you have ſaid of uſurers, which I deſire you will be pleaſed to explain more fully; for you ſaid, when any one having a lay eſtate, or a citizen has employed himſelf in public uſury, &c. from which words there ſeems to be a certain diſtinction of perſons among thoſe who thus offend; and that clerks and laymen are dealt with differently when they are guilty of the ſame offences. And from what is added, has employed himſelf in public uſury, one may ſuppoſe that ſome are not public, in which if any one engages, whether he is ſubject to the law of public uſury, I am wholly ignorant.

M. My thinking that you would be ſatisfied with conciſe and common expreſſions, was to no purpoſe, ſince you are ſtriking out theſe ſort of queſtions, which the moſt learned, even to this day, have not been able to reſolve. The condition of clerks and laymen ſeems to be (*a*) different, by what you ſay, when their offences are the ſame, I do not by any means allow it: for as they differ in their degrees, ſo do they in their offences, according to that ſaying, as much higher as the degree is, ſo much the more heinous is the offence; they are likewiſe different, as ſome will have it, in good and meritorious actions: for the laymen, being leſs bound by the neceſſity of their vows, deſerve more favour; as thoſe offend more in the commiſſion of froward actions, who are engaged in the vows of religion. But thus much concerning this: what has gone before will fully reſolve the former part of your queſtion, inaſmuch as a clerk, who is employed in uſury, forfeits the privilege of his dignity, ſo he deſerves the ſame puniſhment as a layman would for a ſimilar offence; that is, that upon his being executed, all his moveables ſhould fall to the treaſury: thus we have it from the wiſe men. The royal authority would not do a chriſtian-like action, was it to proceed thus againſt a clerk or layman, who had offended, while he was living, for there is time to repent; but it rather reſerves him for eccleſiaſtical judgment, to be condemned according to the nature of his condition: but when he is dead, all his goods (the church laying no claim to them) become the King's: unleſs, as is obſerved, he has meetly repented in his life-time, and abſolutely aliened from himſelf what he has determined to bequeath by his laſt will. It remains therefore, to-

(*a*) R. B. different *omitted*.

ſhew,

ſhew, what is public, and what is not public uſury; then, whether thoſe who offend in both, are bound by the ſame law. We call that public and common uſury, when, according to the manner of the Jews, any one takes more by agreement, of the ſame ſpecies of money, than he lent; as a pound for a mark, or two pence for a pound of ſilver for a week's intereſt, beſides the principal: we do not call that public, but damnable uſury, when any one takes an eſtate or a church for what is lent, and receives the profits of them, until the principal itſelf is paid off. This ſort, by reaſon of the trouble and expence, which is uſually laid out in agriculture, ſeemed to be more allowed; but it is certainly ſcandalous, and ought to be reckoned uſury. If a creditor, who is avaritious, and inclined to ruin his own ſoul, ſhall think proper to have it thus expreſſed in the deed; as for inſtance; "Know all men, that I N. owe to N. one hundred marks "of ſilver, and I have mortgaged ſuch land to him for ten pounds for "thoſe hundred marks; until I, or my heir, ſhall pay to him, or to his "heir, the aforeſaid hundred marks." When the tenor of this infamous deed reaches the King's, or the chief juſtice's ears, after the deceaſe of the creditor: firſt of all, the ſcandalous and uſurious method of getting money is adjudged void, and the uſurious creditor being detected with the deed, forfeits his moveables. If he, whoſe eſtate it was, can by any means prevail on the King, to reſtore it him, when thus ſold, he ſhall ſtand indebted to the lord the King for all the principal, though the creditor ſhould have been in poſſeſſion of it for two years or upwards; however, the King's bounty uſually rates a ſum out of the principal, chiefly by reaſon of his ſingular goodneſs, in which he is bound to his faithful ſubjects, by his pre-eminence, as alſo, becauſe he is intitled to take all the creditor's or uſurer's goods, who had enriched himſelf at the expence of his faithful ſubjects ruin, by virtue of his public authority. And there are many others which particularly belong to the treaſury, that cannot be eaſily reduced to, or comprehended in one courſe of writing; as they are not ſettled, but caſual. The accompts of theſe third ſort of lapſes, do not follow above after the fermes, but below, after all the fines, before the chattels of fugitives; as will appear from the very manner of their being placed according as they belong to the treaſury, for the enormous crimes of the offenders.

S. What you have ſaid ſurprizes me; for to me it ſeems impoſſible to be conſiſtent with the former part of your diſcourſe. Since the lords of villains may not only tranſport them, but ſell them in any manner they

they ſhall think proper, as has been ſaid; and they are deſervedly eſteemed the lords, not only of their chattels, but alſo of their bodies; it is unaccountable that the lord of the eſtate, and of the guilty perſon, when he has not offended againſt the law, ſhould be deprived of his poſſeſſion: it may be juſt, that the King's ordinance ſhould puniſh the digreſſion, on the offender's perſon, but his moveables, together with his eſtate, ſhould be reſtored for the uſe of their lords.

M. This that aſtoniſhes you, was alſo matter of aſtoniſhment to me; but I think it unneceſſary to delay ourſelves long about it, as it is foreign to what we began with. But yet to give you ſome ſatisfaction; you muſt know, that it is ſo ſolely by reaſon of the King's aſſize; nor dares any one preſume to oppoſe the King's ordinance, which is for the ſake of peace. If the chattels of thoſe perſons, who were condemned by the aſſize, were to become the property of their lords, perhaps, as the parching thirſt of human avarice is centered in the middle of the heart, ſome would endeavour to deprive even thoſe, who were innocent, of life for the ſake of a ſmall trifle of gain: therefore the King himſelf, to whom the care of his ſubjects is in general entruſted by God, has ſo ordered it, that the guilty thus ſatisfying the law, ſhould ſuffer corporal puniſhment, and that he himſelf ſhould have their moveables, to prevent their being expoſed to their domeſtick enemies, that is, their lords: but this queſtion is chiefly reſolved, by my juſt now ſaying, that the King's ordinance was neceſſarily made for the ſake of peace.

S. I find it was not made without reaſon. Now, if you pleaſe, proceed. But I deſire you will more fully explain what has gone before. For you ſaid, that the moveables of fugitives, and of thoſe who were maimed, being ſummoned by aſſize, were brought to the exchequer, and entered in their proper place, upon the roll: but you have not told me, what ought to be done with the chattels of plunderers, or robbers; that is, whether they belong to the King, or whether they of right belong to any particular perſon.

M. There is a difference between plunderers, who are alſo called open robbers, and (*a*) thoſe who ſteal privately; beſides, there are two ſorts of the former, as well as of the latter, and the chattels of each of them accrue in a different manner. Some of the plunderers, as alſo the robbers, are out of the law, whom we more commonly call outlawed, ſome not: but the outlawed, or thoſe who are out of the law, become ſo, when being lawfully cited they do not appear, and are expected, and even

(*a*) R. B. inſtead of, thoſe who ſteal privately, has a blank.

required

required to ſurrender themſelves to juſtice, at a lawful and fixed time, but do not. So that their chattels, as well as their life, are acknowledged to be in the hands of thoſe who take them; nor can they by any means belong to the King: but the goods of plunderers, who have not as yet fell into this extream miſery, if they are taken, go to the treaſury: but thoſe of robbers, to the ſheriff, by whom they are taken, and puniſhed. If the ſheriff ſhall think it worth his while, to have the cauſe relating to the robber tried, and there determined (*a*) before the court, nothing is due to him, but every thing the robber has, is the King's. If any one purſues a private robber, and takes him in the lord the King's chief court, or in the county, and proves him guilty of the robbery by judgment of law; the goods taken away, are firſt to be reſtored to the party injured, out of the robber's chattels, if there are ſufficient to do it, upon the honour or oath of him who demands them, if the lord the King's juſtice thinks proper as to the quantity of goods taken away: but afterwards, by the provident inſtitution of thoſe, who were deſirous of tranquility, he was to receive only ſo much of the robber's goods, both for his trouble and expence, as he had at firſt loſt; and this double and prudent payment, was not improperly called by the ancients, *ſolta*, [payments] *perſolta*, or *proſolta*, (*b*) [thorough payments]: for firſt, what was taken away, was paid, and therefore called [*ſolta*]: then for trouble and expence, which occaſioned the addition of *pro* or *per*, were called [*proſalta* or *perſolta*]: this being ſo ſettled, what remained of the offender's goods belonged to the treaſury.

S. And this is thought neceſſary; but now, if you pleaſe, proceed to the income of the woods, as you promiſed.

(*a*) R. B. inſtead of, before the court, has a ſmall blank.

(*b*) for inſtance; and 6*l.* 13*s.* 4*d.* to William Cumin and John Marſcall for the King's payments. Great roll, 2 H. 2. Roll. 1. a. Norfolk.

Forty pounds for the Queen's payments, by the King's writ to William Cumin, and William de Hay, and Robert Fot. Ib. Roll. 1. b. Suffolk.

Thirty pounds to William Cade for the King's payments by tale, and 100*s.* for the King's payment to William Cumin and John Marſcall. Ib. Roll. 1. b. Suff.

Thirty pounds to Aaron the Jew, by the King's writ, in the King's payments. Great roll, 12 H. 2. Roll. 6. a.

M. It gives me pleaſure to find you remember the force of what I have ſaid, and the manner in which I have expreſſed myſelf. It is therefore incumbent upon me to ſatisfy your doubts to the utmoſt of my power.

CHAP. XI.

The income of Woods.

THE accompt of the income (*a*) of woods follows next after that of purpreſtures and eſcheats, very brief and conciſe, in this form of words; "The ſame ſheriff," or ſuch an one, "accompts for "twenty pounds, of the income of ſuch a wood, or foreſt, in Northamp-"tonſhire; he has delivered it into the treaſury, and is diſcharged." For there are ſome foreſts, out of which, tithes of the ſettled incomes, are paid to the greater churches; as to Saliſbury church, out of Wiltſhire (*b*) and Hampſhire, and to Lincoln church out of Northamptonſhire: the reaſon of which payment I have been told was, becauſe, as almoſt all, or the greateſt part, of what was paid out of the foreſts, aroſe from fines and aſſeſſments, it was therefore thought that this unlawful gain, might by all means be recovered, by granting of tithes. The accompts are made in this manner; "Such or ſuch an one accompts for twenty "pounds, of the income of ſuch a foreſt; eighteen pounds in the trea-"ſury;" and at the top of the next under line thus; "And to ſuch a "church forty ſhillings for ſettled tithes;" then at the end of the ſame line, ſomewhat ſeparate from the other entry thus; "And he is diſ-"charged." Remember what is once told you, that all the debts, and alſo thoſe which have been paid in the treaſury, are to be placed ſeparately from the other entries; that they may more eaſily occur upon an attentive peruſal of them; for the ſummonces are made out from what is to be paid, and the diſcharges from what has been already paid; the accompt of fines and agreements, follows next after the careful accompt of the chief ferme, old or new, and next to the accompt of purpreſtures and eſcheats, and income of woods, all which, as I have ſaid, are paid by an annual right; in which is firſt prefixed, after a ſmall ſpace, in the middle of the line, the names of the judges, before whom they were aſſeſſed.

(*a*) The annual profits of the foreſt were uſually termed income. For example; Roger de Powis [owes] 50*l.* for the income of the foreſt of Den, —— for the five years he was in poſſeſſion of the foreſt. Great roll, 26 Hen. 2. Roll. 1. b. Shropſhire. The ſame ſheriff accompts for 30*s.* for the income of the foreſt of Graveling. Ib. Roll. 9. a. Wiltſhire. Walter Walleran accompts for 25*l.* for the income of the new foreſt. Ib. Roll. 10. a. Hampſhire. Ralph, ſon of Stephen, owes 20*l.* for the income of the foreſt of Shirewood.—Nott. and Derbyſhire.

(*b*) R. B. and Hampſhire *omitted.*

CHAP. XII.

Of fines and agreements, and in what order theſe accompts are to be made up, when the ſubſidies are paid.

WE call the pecuniary puniſhments, to which offenders are liable, fines; and voluntary oblations, (*a*) agreements. When therefore theſe are to be levied, the ſummonce is firſt of all delivered to the chancellor's clerk; who preſſes the ſheriff for each, as they ſtand in order, ſaying, "Pay for ſuch an one ten ſhillings, for ſuch a cauſe;" if he pays into the treaſury, the demand made on him, it is thus entered on the annual roll; "N. accompts for ten pounds for ſuch a cauſe," and the whole is regularly reduced into writing, he has delivered it into the treaſury, and has his quietus: but if he is diſcharged by the King's writ, as I ſaid, the quantity muſt be mentioned in the writ, it is to be entered; "N. accompts for ten pounds," and adds the cauſe; then a little lower in the ſame line, "ten pounds to the ſame N. by the King's "writ, and he is diſcharged;" if he is ſummoned for one hundred ſhillings, when yet the ſum due is ten pounds on the annual roll, and he has paid one hundred ſhillings in money, or has obtained the King's writ for one hundred ſhillings, it ſhall be ſaid; "N. accompts for ten pounds, "one hundred ſhillings in the treaſury, and he owes one hundred ſhil- "lings, or one hundred ſhillings to the ſame N. by the King's writ in "pardons, and he owes one hundred ſhillings." And note, that each muſt anſwer for himſelf, in all accompts of fines and agreements, that is to ſay, if he has not made ſatisfaction for the debt, or wholly diſcharged it, they receive it in his own name, except common aſſizes, danegelds, and murders; for the ſheriff accompts for theſe, and hereupon he is entered on the annual roll, either diſcharged, or indebted. If the ſheriff be changed, yet he who ſucceeds him muſt anſwer, and be ſummoned for them; and if he does not make ſatisfaction for them, he is to be diſtrained by the ferme he is to pay. For every one ſucceeds in the charge of the office, left by the removed ſheriff; he receives from him a copy of the King's debts in that county; that he may know of whom he is to demand what is due, when he receives the ſummonce brought him.

(*a*) for inſtance; Richard de Liſewis owes five marks for the great aſſize againſt Geoffrey Talbot of the land of Streta. And this is Richard's voluntary fine. Great roll, 1 Rich. 1. Roll. 9. a. Dorſ. and Somerſ. tit. of voluntary fines to the court.

The

The accompts therefore in general belong to the ſheriff, who only has a right to diſtrain individuals; and whoſoever is ſheriff, as long as there is an accompt ſubſiſting, he ſhall for this reaſon be entered either diſcharged or indebted.

S. I remember what is to be done, when any one is ſummoned for a debt, and produces the King's writ, which mentions the quantity of the ſum demanded. If he brings to the exchequer the King's charter of the diſcharge of matters of the ſame nature; as if it runs thus; "I will "that he hold all theſe free, and diſcharged of fines and murders, and of "ſuch and ſuch ſort;" whether it will be entered among the pardons?

M. It will to be ſure; but not entered, ſuch or ſuch a ſum in pardons by the King's charter, or by the privilege of the charter, but by the King's writ: (*a*) if the charter is not particular, but runs in this manner; let him enjoy the above-mentioned, free and diſcharged from all taxes, and ſecular ſervices; yet he is not diſcharged by this, from what is demanded of him, or ſhall be entered among the pardons: for the officers will not be deprived of a ſpecial debt by a general diſcharge.

S. That niceneſs is of very dangerous conſequence: for he who is free from every ſort, ought to be diſcharged from particular ones.

M. What you ſay is true; and I am of the ſame opinion; but I am ſpeaking of what is done, not of what perhaps ought to be done. When therefore ſatisfaction is made of all theſe things that are contained in the ſummonce, either by numbered money, or by the King's writ, the method of entry, mentioned above, is always to be made uſe of: but when any one has not paid the whole of what is demanded of him, but part of it, or perhaps none, the ſheriff is immediately called upon to give a reaſon, why he did not pay it. If the ſheriff returns for anſwer, that he has made diligent ſearch and inquiry about him, but cannot find any chattels; the treaſurer replies, take care; for you muſt confirm upon your corporal oath, the truth of this matter; namely, that you have inquired, and that you could not find ſufficient to ſatisfy the debt;

(*a*) In ancient times it was uſual to enter on the great roll, to ſuch or ſuch an one in gifts or pardons; for inſtance; and 7 *l.* of the King's gift to Cadwadlador; and 8*l.* 10*s.* to Maddoch by the King's writ in pardons; and 40*s.* to Gaervett; and 40*s.* to Howel, Joaff's ſon. Great roll, 3 H. 2. Roll. 5. a. Shropſhire. Walter de Lindſey accompts for ten marks; ten marks by Richard de Lucy's writ to Walter in pardons; becauſe they ſhould be demanded of earl William by the ſame writ, and he has his quietus. Great roll, 13 H. 2. Roll. 11. a. Cambr. and Hunt. Of which matter there are many inſtances in Mad. hiſt. excheq.

who anſwering, I am ready; the taking of the oath is to be deferred to the cloſe of the accompt; when being once given, is ſufficient upon many like occaſions. Much has been ſaid about this oath at the beginning, and ſome remains to be mentioned in it's proper place.

CHAP. XIII.

Of the diſtinction of thoſe perſons who cannot pay, concerning whom the ſheriff takes his oath, and in what form of words it is given.

I MUST here firſt make a diſtinction between debtors and debts; that it may appear to you, in what the oath being offered takes place, and in what not: for if an officer, or other freeman, or bondman, or any of theſe ſort of perſons, of whatever condition or ſex, is bound to the King in any debt, which is a puniſhment for the digreſſion, not a voluntary oblation, the treaſurer ſhall be content with the ſheriff's offering his oath, which he is to take at the cloſe of his accompt; and a man or woman whoſe action becomes uſeleſs thro' poverty, ſhall be again entered debtor in this annual roll, as in the laſt; but it is otherwiſe, if the debtor in queſtion is a citizen or burgeſs; if he be a citizen by birth, or ſhall ſubject himſelf of his own accord, upon neceſſity, requiring it to the laws of his fellow citizens; it is not ſufficient for the ſheriff, if any of theſe do not make ſatisfaction for the ſum demanded, to pay it in moveables, or offer his oath, that he has made inquiry, but cannot diſcover any, ſo as to be diſcharged at the exchequer, unleſs he confiſcates all their houſes, eſtates, and rents of their cities, and lets them out, that thus the money due to the King may be forthcoming; if he cannot find any to take them (men of the ſame condition ſparing one another) he locks up the houſes, and cauſes their eſtates to be carefully cultivated. But if they in the interim pay what is demanded of them, the ſheriff returns to the owners their right, without any trouble.

S. I cannot help wondering, that when the offence is not different, our law ſhould puniſh theſe ſort of men more ſeverely.

M. The greateſt part of the poſſeſſion of thoſe who have eſtates, and are ſupported by agriculture, conſiſts of ſheep, cattle, and corn, and ſuch as cannot eaſily eſcape the notice of the inhabitants: but thoſe who deal in traffic, and who ſparing of expence, are intent on encreaſing their

their poſſeſſions, as much as poſſible, by all manner of methods, their chief concern is in numbered money. For trade is better carried on with it; and it is more conveniently laid up in ſafe and unknown places: whence it happens, that thoſe who are rich are often reckoned poor, the ſums concealed not being known: upon this account therefore the law is more ſevere againſt them; becauſe their immenſe wealth is not to be eaſily exhauſted.

S. What common aſſize is, and who is anſwerable for it, and in what manner, appears in a great meaſure from what has been ſaid. Now, if you pleaſe, let me into the doctrine of aids, or of the gifts of citizens and burgeſſes; how theſe accompts are made up, and who are chiefly to be convened or diſtrained for them; the method of making the diſtreſs appears from what has gone before.

M. I am glad to hear you ſay you remember the former part of my diſcourſe; I own it has given me ſpirits. You muſt know therefore that it makes a wide difference, whether the gift or aid of the city is ſettled by the juſtices on each individual inhabitant: or whether the citizens offer a certain ſum to the juſtices, worthy the prince's acceptance, and it is received by them: for the method of making the diſtreſs in theſe two caſes is different; for if the aid be ſettled, on each individual by the juſtices, and any of them becomes inſolvent; the aforeſaid law concerning inſolvent citizens is obſerved; namely, to deprive them of their houſes and rents 'till payment be made. But if the citizens ſay, We will give the King a thouſand pounds; and this ſum be eſteemed worthy acceptance; they muſt take care to raiſe it againſt the appointed times. If they begin to make excuſes, by alledging the poverty of ſome, who were bound in part of the ſaid ſum; then diligent inquiry is to be made, that is, by the ſheriff's oath, whether their circumſtances were ſuch, when they agreed to the gift or aid, that they were not able to pay it; if it be ſo, they muſt provide others from whom the former ſum may be raiſed, or what remains may be equally contributed among them; but if they were in affluent circumſtances at the time of the agreement, and now unfortunately reduced, they muſt ſubmit to it, 'till God's bleſſing enriches them again.

S. I find that preſerving a method in every thing, you are always inclined for the King's intereſt.

M. You remember what is to be done with the inſolvent citizens or burgeſſes. If any officer, or other freeman, degenerating from the dignity of his condition, ſhall employ himſelf in public dealings to encreaſe his

his wealth, or in the baſeſt ſort of gain, that is, uſury, and ſhall not pay the taxes of his own accord, the ſheriff ſhall be diſcharged merely by his oath of not being able to find. But when he ſuggeſts this to the preſident, he receives a ſtrict command from him, to procure ſureties for payment of the money, which is required of him, at the appointed times; if he refuſes, all his rents are forfeited; that the ſame proper method may be taken with thoſe who encreaſe their wealth at any rate.

S. It is very juſt, that a degenerate officer, or any other freeman, rejecting his condition for ſordid gain, ſhould be puniſhed beyond the common law of freemen. But now, if you pleaſe, inſtruct me what are reckoned his chattels, who is indebted to the King, and whether the ſheriff is to take all from all, 'till he raiſes the ſum demanded, when the debtor in chief does not pay the taxes of his own accord.

CHAP. XIV.

What chattels of the debtors are to be ſold, when they do not pay of their own accord, and what order is to be obſerved in the ſale of them.

M. YOU have drove me into an ocean of queſtions; God knows how I am to extricate myſelf out of them. You muſt know then, that a ſecond diſtinction of perſons is neceſſary, as will clearly appear from what follows; but I wiſh you would excuſe me this ſubject, leſt you oblige me to mention things, that may diſpleaſe many.

S. As long as you do not ſwerve from the tract of the ſettled law, you will not incur the juſt diſpleaſure of a prudent man: if what the law has enacted, appears ſevere to any one, he will condemn the legiſlature, not you.

M. I made myſelf your debtor from the beginning by my promiſe. Therefore I am (*a*) willingly bound to obey you, in anſwering whatever queſtions you (*b*) are deſirous of aſking. The chattels therefore of the debtors, who do not pay the taxes of their own accord, which may be

(*a*) R. B. unwillingly.

(*b*) R. B. are deſirous of *omitted.*

lawfully

lawfully ſold, are their moveables, and moving with them; ſuch as gold, ſilver, and veſſels made of them, as alſo precious ſtones, and changes of raiment, and the like; and both ſorts of horſes; namely, thoſe in uſe, and thoſe not broke; alſo herds of oxen, and flocks of ſheep, and ſuch ſort; corn likewiſe, and ſome kind of victuals, that are of a moving quality, may be abſolutely ſold, deducting the debtor's neceſſary expence for food only, ſufficient to ſupply neceſſity, not ſuperfluity, and enough for nature, not luxury; nor are theſe neceſſaries found only for the debtor, but alſo for his wife, his children, and family, which he maintained when he was getting his own living.

S. Why do you ſay ſome kind of victuals?

M. Victuals which are provided by them for daily uſe, and conſtantly at meals; ſuch as bread and drink, cannot be ſold on any account; thoſe victuals therefore only, (except what was neceſſary for uſe) were to be detained by the lords for ſale, might be lawfully ſold; ſuch as cured meat, cheeſes, honey, wine, and the like. And note, that if the debtor, who is inſolvent, has once obtained a military belt, the reſt of his moveables being ſold, yet an horſe, not any, but a ſerviceable one, ſhall be reſerved for him; leſt being of the dignity of horſe, he ſhould be obliged to walk on foot. If he be one of thoſe ſort of knights, whom the honour of arms delights, and he is pleaſed with making uſe of them, and who ought, from his merit, to be accounted brave, the whole armour of his body, with horſes neceſſary for it, ſhall be entirely out of the ſeller's power; that when it is his duty, he may, furniſhed with arms and horſes, take upon himſelf the buſineſs of the King, and kingdom. But if he, whom the law partly excuſes, being informed of the King's, or kingdom's neceſſity, conceals himſelf and abſconds, or does not come, being called upon, ſo as he ſerves not for his own, but for the King's wages, nor doth excuſe himſelf for his abſence, nor ſettle with the ſellers; but content with his horſe only left him, by reaſon of his military dignity, he is liable to the common law. But the ſheriff muſt take care to forewarn his ſellers, or appraiſers, to obſerve this order in the ſale; every one's moveables are ſold firſt, but they muſt ſpare, as much as they can, the oxen of the plow, by which agriculture is exerciſed, leſt the debtor, upon failure hereof, ſhould be drove to greater want for the future. But if the ſum demanded, cannot be raiſed even by this means; the oxen of the plow are not to be ſpared. When therefore every thing that is ſaleable, which particularly belongs to him, is ſold; and ſtill not ſufficient, they may ſeize his villain's eſtates, and lawfully ſell their chattels, obſerving at the ſame time the aforeſaid

order.

order and law; for theſe are acknowledged to belong to the lord, as has been ſaid above: which being done, whether the ſum demanded, is ſatisfied or not by this means, our law commands the appraiſers to deſiſt; unleſs there happen to be ſcutage demanded of the lord; for if the lord in chief, who is bound to the King for ſcutage, does not pay it, not only his own, but alſo the chattels of his knights and villains in general are ſold; for the ſcutages in a great meaſure regard his knights, becauſe they are not due to the King, but by the knights, and the military ſervice. Yet I myſelf, who am not very old, have been an eye-witneſs, of not only their own chattels, but alſo thoſe of their knights and villains, being lawfully ſold, for each of the debts of thoſe, who had not made ſatisfaction for them. But the inſtitution of the illuſtrious King, has ordered this to be obſerved in ſcutages only, keeping this method, that their own ſhould be firſt ſold, and then their villains, &c. If the knights ſhould pay their lord the produce of their own inheritances, and be willing to prove it, having offered ſecurity, the law forbids their own chattels to be ſold, for their lord's demands.

CHAP. XV.

That the ſheriff may take the ſum, due to the King, from the debtors of that debtor, who does not pay the King.

THE ſheriff is alſo to be admoniſhed, to make as diligent and careful ſearch as he poſſibly can, whether any one in his county is bound to ſuch a debtor, in the payment of a ſum of money, lent or intruſted with him: if it be ſo found, the ſum which is demanded of his creditor, who is bound to the King, may be exacted, leſt he be prevented, by the authority of public power, from being able to anſwer it.

CHAP. XVI.

That the ſheriff may take his demand out of his eſtate who has not paid it, by which he is bound to the King, notwithſtanding he has alienated the ſame.

ALSO, if a debtor ſhall have let out to another, his eſtate or rent, from the time of his becoming bound to the King, or given a pledge for the money, or what perhaps may ſeem abſurd to you, ſhall have aſſigned over his property by ſale; if nothing elſe can be found to make the King ſatisfaction; whoever the perſon is, by whatever title he has

has the poſſeſſion, yet what belongs to the King, ſhall be taken out of it; with a ſaving of the lord's property, who is in poſſeſſion of it by a juſt title; unleſs the debtor ſhould at firſt have paid the value of the alienated eſtate to the King, of his own accord; for then the purchaſer will be ſecure of his poſſeſſion. But you will allow the reaſon of this matter, tho' it appears ſomewhat ſtrained, and rather too much ſubſervient to the King's intereſt, and that it is clearly juſt, according to the laws of the country. For whoever is caught offending the royal majeſty, he is condemned to the King one of theſe three ways, according to the quality of the offence: for the offender is either ſentenced to forfeit all his moveables for leſs faults; or all his immoveables, as eſtates and rents, for greater faults; that he be diſinherited of them, or his life and members, forfeited for the greateſt or moſt enormous offences: when therefore judgment is given againſt any one's moveables, at the King's pleaſure, the ſentence is pronounced againſt him by the judges in theſe words, He is in the King's mercy for his money; this is the ſame as if they had ſaid for the whole. Becauſe the indefinite ſentences of the laymen, are not of equal force with thoſe for whom it is ſafer to receive them, that is, particular ones, but always general ones. When therefore the chattels of that eſtate which the debtor diſtrained before, are at the King's diſpoſal, and he does not make ſatisfaction for the ſum demanded, it is unjuſt that he ſhould alienate an eſtate not his own, to the loſs of the treaſury.

CHAP. XVII.

That the ſheriff may not take money due to himſelf from the inſolvent, and what is to be done if he ſhould take it.

THE ſheriff is alſo to be admoniſhed, by reaſon of the ſacredneſs of his oath, which is taken of him concerning the inſolvents, nay what he offered to take of his own accord, that he may by this means diſcharge himſelf from the ſummonce made out to him, leſt he ſhould take in the mean time, any debts juſtly owing to himſelf from any debtor, who has not paid the King. For it is not very likely, that the ſheriff cannot find chattels of his to pay what is due to the King, who either of his own accord, or againſt his will, pays the ſheriff his demands. But yet if the ſheriff be recorded by himſelf, or by another, to have taken any of them before his oath was given him, or even after, he ſhall not be diſcharged, on paying the money, he has received, in the debtor's name, at the cloſe of the exchequer of that day; that is, when his ac-

count is recent, by coming in public, and complaining, that he had forgot his oath, and for what purpoſe he took it, and that he is ready to confirm what he ſays. But if he ſhould ſignify this by another, upon his being abſent, when he has taken his oath, after the cloſe of the exchequer, he ſhall not now be diſcharged, upon only paying what he has taken; but be fined, and puniſhed at the King's pleaſure for his digreſſion. Laſtly, it is ſufficient if the ſheriff was cautioned, to make a careful inquiry, in the neighbourhood, after he has received the ſummonce, if it be a man, that is inſolvent, who has married a rich woman, or if it be a woman, whether ſhe has married a rich man, or has enriched herſelf by any other means, ſo far as to be able to make the ſatisfaction required; if it be ſo found ſhe will be obliged to pay, by reaſon of the ſheriff's oath: if nothing of this is found; he may then take his oath about theſe matters, with a clear conſcience, and avoid the impending loſs of his effects.

CHAP. XVIII.

In what manner the huſband is to be convened for the wife, or the wife for the huſband, when he or ſhe becomes inſolvent.

S. SHOULD the huſband be convened for the wife, who is bound to the King, and is now dead, or the wife for her huſband, upon her out-living him?

M. You have heard often enough, that he who cleaves to a woman, becomes one and the ſame body; but ſo as to be the head of her. He is therefore properly convened for her, becauſe the woman has no power over herſelf, but the man. If the huſband has children by her, to whom the inheritance deſcends in right of the wife, and upon her death there is money due to the King; the huſband is to be convened, and diſtrained, in the name of the heir; but otherwiſe not. Beſides, a woman who ſurvives her huſband, having children by him, and remaining a widow, lives by herſelf; ſhe is to be convened and diſtrained, becauſe of the children to whom the inheritance belongs; but ſo as to ſpare her dower, becauſe it was *præmium pudoris*. If the woman marries another man, there being children left; the lawful heir is to be convened for his father's debt: but if the woman who has offended, and is bound to the King, her former huſband being dead, without children, ſhould have given herſelf, and her inheritance to another, her debt is to be demanded (*a*) of the huſband. This is what you aſked. And this is the manner in which the huſband, on the wife's account, and the wife's on the huſband's, is to be convened: but you may be aſſured, that the

(*a*) R. B. of the huſband *omitted*.

the lawful heir, who ſucceeds the debtor, is always to be convened for him; that as he partakes of the benefit, ſo he muſt ſubmit to the loſs: but a villain only, and he who dies without any inheritance, are diſcharged from their debts, upon the chattels being ſold at their death: but yet they are not to be taken out of the annual roll in which theſe debts are entered, but by the King's writ, when namely, the treaſurer acquaints his Majeſty that they are in vain, and to no manner of uſe kept on the roll, it being impoſſible that the money due on them ſhould ever be paid.

CHAP. XIX.

That the method of diſtraining the King's barons, and others, for fines, is not the ſame.

YOU muſt therefore know, that the ſame method is not taken (when the King's debts are demanded, and the debtors diſtrained) with the King's barons, (*a*) as others, who are every where fined to the King for their offences. Beſides the aforeſaid law is obſerved as to thoſe who hold nothing of the King in capite: but if one who holds a barony of the King, upon hearing the ſummonce, ſhall take an oath in his own proper perſon, or ſend one by his common ſteward, (who is generally called his ſeneſchal) to the ſheriff in this form of words; That he will anſwer this ſum and ſummonce on the day of his accompting before the barons at the exchequer; the ſheriff ſhall be herewith content.

(*a*) It ſeems probable that the barons were ſo called becauſe they were the King's homines (men) (or the King's chief and principal tenants) as having ſworn homin' or homage to the King, as that moſt learned man D. George Hickes has obſerved, in his noble and immortal work intituled Theſaurus ling. ſeptentr. de gramm. Angloſax. pag. 146. and as the thing ſpeaks itſelf. Theſe barons or magnates our famous author here calls the King's barons, nor unjuſtly; for all the magnates of England (properly ſo called) were in ancient times the King's homines (men) or barons, namely, thoſe who (as is here hinted above, and as is more fully explained in Mad. hiſt. excheq, chap. 15, 16, and 17.) held their baronies immediately from, or in capite, of the King. Indeed a man very famous among the antiquaries of Eugland, while he lived, has by no means wrote judiciouſly concerning this matter, in my opinion; I thought proper to omit mentioning his name, as well becauſe he is now dead, as becauſe he was my friend and acquaintance. He in a certain printed book of his ſays, That there were formerly barons of the kingdom, who were different from the King's barons: and alſo that the knights and freeholders in capite of the kingdom, were not the ſame as the knights and freeholders in capite of the King; but what he means by the diſtinction, I cannot find out. There were formerly, without doubt, barons, ſo called, in an improper, or not in its peculiar ſenſe, who were the chief tenants or vaſſals of the earls, and others, the Kings barons: there were alſo other barons much inferior to theſe, and more improperly ſo called, as were the barons, that is men, of the cinque ports, and of other towns; but neither the former or the latter, as I know of, were hardly ever called barons of England, or of the kingdom, or wont to be comprehended in the name of baronage; but if that modern author will have it, that there were barons (properly ſo called) who held their baronies, not of the King, but of the kingdom, and that there were knights, and freeholders, who held their feuds by military ſervice of the kingdom, he ſeems to me to throw ſnares in the unwary reader's way, by urging a matter clearly chymerical.

CHAP. XX.

What is to be done when the ſteward, who has taken his oath to make ſatisfaction, does not appear.

BUT if he on the day of accompting, being called upon by the cryer, ſhould not come, nor the ſheriff himſelf, nor any one for him, to ſatisfy what is decreed he ought to have made ſatisfaction for, the cauſe of it being ſet a part in the remembrances of the exchequer, is carefully marked by the treaſurer's command till the end of the exchequer; that then upon the meeting of the council, he who has thus offended may be the more ſeverely puniſhed: if he ſhould come and make ſatisfaction, after the ſheriff's accompt is compleated, he may be diſcharged by favour of the officers, and the indulgence of the law; but it is neceſſary for the ſheriff to take his oath in the county, before them all; becauſe if he who took it ſhould out of malice deny the taking it, the record of the county ſhall be ſufficient, and the beſt and ſtrongeſt proof that can poſſibly be produced againſt him. If the ſheriff ſhould own that he took it in another place, or in another manner, this ſhall not be adjudged a deficiency, ſo as to require the ſum to be taken out of his ferme to ſatisfy the ſummonce, which expreſly ſays, in ſuch a caſe, "Or be taken out of your ferme."

CHAP. XXI.

What is to be done when he comes and does not make ſatisfaction, if he be a knight, what if he be not?

IF he who does not deny, but that he took the oath, ſhall come at the appointed day, and not make ſatisfaction, if he is a lord, he ſhall be detained at the exchequer as long as it ſits, the oath being given by the marſhal, as I have ſaid above, that he will not depart from the confines of the town, in which the exchequer is ſituated, unleſs by the barons leave; but if he ſhould not have made ſatisfaction by the cloſe of the exchequer of that term, he muſt be ſecured within the liberty of the priſon, until the King himſelf, if he be preſent, or the preſident, with the other officers, determines what is to be done with him, who has

has acknowledged, that he did take an oath to make ſatisfaction, but yet has made no manner of ſatisfaction. If a knight, or any other, his ſteward, ſhall come and not make ſatisfaction, he ſhall be apprehended for his perjury, and delivered to the marſhal to be confined; he may be lawfully fettered, after the cloſe of the exchequer, and thrown into gaol, whether he be an officer or not: but a knight not making ſatisfaction for his own debt, though he has given his oath to do it, ſhall not be kept in gaol, after the cloſe of the exchequer, but within the privileged confines of the priſon-houſe, upon taking his corporal oath, that he will not depart thence without the King's, or the preſident's leave: for the illuſtrious King, remarkable for his generoſity, hath ordained, that whoever is honoured with the military dignity, ſhall not be thrown into priſon for his own debt, when the ſheriff, and the neighbourhood, looks upon him as a poor man, but ſhall be kept a part within the liberty of the priſon; but whoever ſhall deliver the ſheriff the oath, as has been ſaid above, by his lord's command, and when he comes, does not pay, the law ordains, that he be taken and thrown into gaol, at the cloſe of the exchequer, whether he be a knight or not: and becauſe every baron may offer his official's oath for the debt demanded of him, that the ſheriff may not be troubled, but that he may conveniently manage his own buſineſs, leſt thus the authority of the royal command ſhould be very much evaded, it is enacted that upon his being taken, who, by not making ſatisfaction, declares himſelf guilty of perjury; the ſheriff immediately direct his officers to view the eſtates of the lord in chief, and ſell the chattels to the beſt advantage, that the ſum demanded may be thus forth coming at the exchequer of the ſame term; and that the offender being apprehended, ſuffer a pecuniary puniſhment according to his abilities for his perjury, and be no more admitted to take his oath upon the ſame debt, though by his lord's command.

CHAP. XXII.

How the lord is to be puniſhed, who, of his own accord, offers his knight, in order to diſcharge himſelf.

EVEN the lord in chief, that he may not preſume to do theſe things without puniſhment, ſhall not have the benefit of his own delay by the oath of the perſon offered, but only by his own, if he ſhould be ſummoned a ſecond time for the ſame debt. But yet ſome

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are of opinion, that he ſhould not for the future procure a delay from the ſheriff, by his own oath always at the exchequer for the ſame debt; which benefit of delay, thoſe who are bound to the treaſury ſay, is of great conſequence; for they may, in the mean while, better ſettle their own affairs, and get ready what is neceſſary for payment which has been put off ſome time; but they rather ſay, that the ſheriff may upon receipt of the ſummonce, immediately ſeize his chattels according to the general rule practiſed on others. I own I do not entirely diſagree with them; but yet it is moſt probable, that the lord procured by many diſcoveries and evidences, his knights being expoſed to theſe misfortunes, as he himſelf might thus, in the mean while, be diſcharged; but the ſtrongeſt proofs of this matter againſt the lord are, his riches, his affluent circumſtances, his being thought able to pay by the ſheriffs, and the neighbourhood.

S. It is very proper that he ſhould forfeit the favour he was indulged with, who has abuſed it to the prejudice of him who granted it.

M. You have, from what has been ſaid, each of theſe particulars diſtinctly enumerated, what chattels ought to be ſold, and what not, between whom there are diſtinctions made, and between whom there are none: and laſtly, when debtors, who are fined to the King, become inſolvent. It remains for me to ſhew what ought to be done concerning voluntary oblations, when they are not paid.

CHAP. XXIII.

What is to be done with thoſe who make voluntary oblations, and do not pay them.

YOU muſt know therefore, that ſome of the oblations made to the King are in ſpecie, ſome in hope. We ſay, they are made in ſpecie, when the King accepts of an oblation; and he who makes it, conſequently takes of the King what he made the oblation for: as if any one of his own accord offers the King one hundred pounds, or one hundred marks, for any liberty, eſtate, ferme, or guardianſhip of any one under age, till he is of full or lawful age, or for any thing elſe that may turn out to his advantage or honour, and with the King's aſſent, takes what he deſires as ſoon as he has made the oblation. Our law therefore determines how long thoſe who bind themſelves of their own

own accord, and are in poſſeſſion upon an agreement entered into with the prince, are to enjoy upon payment, and make uſe of the bounty granted them. If being ſummoned upon the King's debt, they ſtop payment, they immediately forfeit what was granted them; yet ſo, that if they make ſatisfaction for the ſame, during the continuance of the exchequer, all that was taken away ſhall be reſtored them without trouble: and note, that every perſon, of whatever condition, or ſex, ſhall be always liable to this cuſtom, concerning voluntary oblations, namely, either to anſwer the ſummonce, or loſe what has been granted him, unleſs the King himſelf, in regard to paſt ſervice, or poverty, indulges him in any thing beyond the common rule; as if he who makes the oblation is indebted in an immenſe ſum of money, and he is ordered to pay part of it at each exchequer, and this is ſignified by the King's writ, directed to the barons: but they are ſaid to be offered in hope, when any one, for the ſake of having juſtice done him, offers the King a certain ſum out of ſome eſtate, or income; yet not that it may be done, leſt you ſhould condemn me, and ſay, he ſold juſtice, but that it may be done without delay. You muſt know, that all that are thus offered, are not accepted of by the prince, though it may ſeem unreaſonable; for he does full juſtice to ſome gratis, merely for paſt ſervice, or out of charity; but to ſome he will not grant it, either upon petition or gratuity; by the laws of mankind, the merits of thoſe who are known to poſſeſs them, ſometimes ſtanding in their way; or perhaps the petitioners own deſerts in vain demanding it, being blamed for having committed ſome offence againſt the kingdom, or King himſelf: but the illuſtrious King has made this ordinance concerning them, that before they have their right, that is, before they obtain it by a ſentence, or if upon the matter's being finally determined, they are deprived of all hope, they pay nothing as an oblation, but it ſhall be ſufficient for the ſheriff to anſwer as to ſuch, that they have not as yet had their right; but he muſt take care it is not the debtor's fault that the cauſe was not brought to an execution, as if he would not ſurrender himſelf to juſtice, that the King might by this contrivance be defrauded of the ſum promiſed him: for when this is diſcovered, his fraud ſhall not at all avail him, but he ſhall be diſtrained in every reſpect, as if he had obtained his right by a ſentence: keeping the King's writ by him, and making no uſe of it, is a ſign of this voluntary delay: but the conſiderate prince deals more mildly with thoſe who loſe their cauſe, after having promiſed a ſum of money, leſt diſappointed of their hope, and deprived of their eſtate, without any advantage, they ſhould be harraſſed with a double contrition.

CHAP.

CHAP. XXIV.

Of reliefs not paid voluntarily.

THERE is alſo a third ſort of revenue, which is not to be abſolutely reckoned among the oblations, but is rather called fines at the exchequer; namely, when a King's tenant in capite of a barony is dead, having left an heir, and the heir compounds with the King for the ſum as well as he can, to obtain his father's right; which fine is generally called a relief. If it be a barony, the ſum of money for the relief is at the King's pleaſure; but if it be for an eſcheat, which has fallen into the King's hands for want of an heir, or otherwiſe, only one knight's fee is paid to the King, as a relief, which was to have been paid by its lord, that is one hundred ſhillings: but ſome are of opinion, that if thoſe who are bound to the King in reliefs, being ſummoned, do not pay them, that they are liable to the laws of voluntary oblations, juſt as when they are inſolvent, they loſe what was granted them: but it may be ſaid with more truth, that as the pecuniary puniſhments are managed, ſo likewiſe ought the reliefs to be; for the inheritance due to the children, by reaſon of ſucceſſion, ſeems to exclude them from the law of voluntary oblations.

CHAP. XXV.

What is to be done with birds which are offered, and when they are to be ſummoned.

IT alſo ſometimes happens, that royal birds are promiſed the King, upon ſome account or other; namely, hawks or faulcons. If he who makes the promiſe, as alſo his determination, ſhould ſay, a this year's hawk, or a mewed one, or deſcribes the place, ſaying, I will give an Iriſh, Spaniſh, or Norway one, the ſatisfaction muſt be ſo: but if neither he who makes the promiſe, nor he to whom it is made, comes to any determination, it is at his option, who made the promiſe, whether he will pay a mewed one, or not: but if it be adjudged whole and ſound by the King's hawkers, wherever it was hatched, it is accepted of. Beſides, if being ſummoued, he brings one worthy acceptance to the exchequer, and there is no one to receive it, though the ſummonce be deferred a year or two, or more, after this, he ſhall not be obliged to pay a mewed one, unleſs he chooſes it. If upon being ſummoned he gets the payment deferred by any means, he muſt pay a mewed one, according to the number

number of years he has been indulged in the delay, whether two, or three, or more; but the ſummonce for them is not made out againſt Eaſter-term, becauſe they are ſeldom uſed in ſummer time; for being then confined within the receſſes of the caves, they are carefully ſecured, that the beauty of their feathers, upon loſing their old ones, may return, and their youth be renewed as the eagles: but thoſe which are due to the King are ſummoned againſt Michaelmas-term; that then upon the approach of winter they may be applied to the King's ſervice. The aforeſaid law concerning voluntary oblations, is obſerved in diſtraining thoſe who thus bind themſelves voluntarily, and do not pay.

CHAP. XII.

Of Queen gold. *

THOSE who bind themſelves voluntarily to the King in numbered money, muſt remember that they are equally bound to the Queen, though it be not ſo expreſſed; for though it be not expreſſed, it is underſtood, that when he has promiſed the King one hundred or two hundred marks, he is in like manner bound to the Queen in one ounce of gold, for an hundred marks of ſilver promiſed the King; for two hundred, in two marks of gold, and ſo on: but the ſheriff is to make uſe of the ſame law throughout, in demanding them, as he does in the King's, yet not before, but after. When therefore the ſummonces are made out for the King's debts, the Queen's clerk, appointed for this purpoſe, attends, and adds in the ſummonce, "Have of ſuch an one, "one hundred marks, for ſuch a cauſe, and one mark of gold for the "Queen's uſe." But what is ſummoned for at the exchequer, is received ſeparately by her officers, appointed for this purpoſe: and you muſt know, that though the King forgives half or all the money promiſed him, or defers ſummoning him, yet every thing that belongs to the Queen ſhall be done, in every reſpect, as ſhe thinks proper; ſo that her debts ſhall neither be forgiven nor deferred without her conſent; but being ſummoned ſhall be paid, and thoſe who do not pay ſhall be diſtrained in the manner aforeſaid.

S. Is any thing due to the Queen out of the ſums promiſed the King within one hundred marks?

M. Some think that they are bound, even in ten marks; as for inſtance, he who promiſes the King ten, is bound to the Queen in one ounce of gold; others, not unleſs one hundred and upwards were promiſed

* *See Prynne's Queen gold, fo. 4. ſect 3. fo. 8. ſect. 6. 12. Co. rep. p. 21, 22.*

miſed at firſt: contentedly therefore drop it for the preſent; for (not being hitherto ſettled) the determination of it is doubtful; the Queen is now conteſting it with the debtors, and the diſpute is, as yet, under the conſideration of the court: but concerning pardoning the Jews, and releaſing the adulteraters of the coin, as has been ſaid of voluntary oblations, their proportion is due to the Queen, according to the form aforeſaid.

S. Does the ſame law indifferently reſtrain the clergy and laiety in pecuniary, and voluntary oblations?

M. The ſame law is obſerved among all in oblations, whether the inſolvent be a clerk or layman, and he forfeits what has been granted him, till he makes ſatisfaction. The ſame is alſo obſerved in regard to all other clerks, who are any ways indebted to the King, that is to ſay, when they have neglected to alledge the privilege of their dignity, and the exemption of their poſſeſſions; but learn, if you pleaſe, from the laymen who are diſcreet, and fear God, what ſhould be done with thoſe who do alledge it, for I at preſent purpoſely omit them, that it may not be ſaid, that I dictated voluntary laws, and milder ordinances to men of my own condition.

S. You ſaid, if I rightly remember, that baronies or eſtates frequently fell into the Kings hands; I deſire you will be pleaſed to inſtruct me, how the rents of eſcheats accrue to the treaſury, whether the ſame way or not.

CHAP. XXVII.

That the fermes are to be accompted for one way, the wardſhips another, and the oath is to be adminiſtered in another form of words.

WHEN a barony or any thing of conſequence falls into the King's hands, diſcreet men, of both orders, are appointed for this purpoſe, by the King's or preſident's command, who viewing each of them, reduce the rents into a groſs ſum, and order the ſheriff, or ſome other, to be bound therein at the exchequer: he therefore who is appointed for this purpoſe, making ſatisfaction for this ſum in money, or writs or tallies, and then taking his oath of the lawfulneſs of the accompt, ought to be diſcharged; and it is thus entered on the annual roll; "ſuch or ſuch an one accompts for the ferme of ſuch an honor; "ſuch a ſum into the treaſury; and he has his quietus," or "and he is "indebted:" but when the King entruſts any one with the care of his eſcheats, to pay the produce of them into the exchequer, ſuch oath is not

not adminiſtered in the ſame form of words, after the accompt is made up; but that he pay as much as he receives in money, or other things, at the exchequer upon his oath, except only ſuch victuals as are given him by way of preſent.

S. Does ſuch fermer take neceſſary ſubſiſtence out of theſe rents?

M. Though it be written, you ſhall not muzzle the mouth of a grazing ox, yet he ought not to take any of them, unleſs by the King's expreſs command; for, whoever he is, he ſhall ſerve the King herein for his wages: but they muſt be thus entered on the annual roll, "ſuch or ſuch "an one accompts for the iſſues of ſuch an honor by his verdict," when therefore ſatisfaction is made for all, the aforeſaid ſtated or caſual particulars, and each of them regularly and authentically entered on the roll, all the officers being called upon to finiſh the accompt of the principal ferme, his name, who gives it, is prefixed at the top of the roll, and it is perfected in this order; the ferme paid by the ſheriff this term, being examined, muſt firſt be divided by the accomptant into numerical heaps, ſome diſtance from each other; then after the ſubſtraction is made by combuſtion, or melting down, as is ſaid above, the ſame is dealbated or blanched, and a ſmall tally of combuſtion affixed to it, for which, however, the ſheriff is not accountable; the ſum which remains, is reduced to a tally: ſo both what was paid and blanched in Eaſter-term, is, in like manner, on the ſame tally, and the combuſtion of the ſame term is ſent with the combuſtion of the laſt term, that there may be one tally of both payments and alſo one of the combuſtion; upon which the treaſurer produces the tax roll I mentioned before, and cauſes the ſum of that county to be regularly placed above in heaps: firſt, therefore, what is paid and blanched in the treaſury is deducted, then what ferme of the county the King has conferred on any in blank; then again, what in any other manner is paid by the King's writs, or otherwiſe, is ranged in heaps and blanched, by deducting twelve pence out of every pound, as thoſe which are paid into the treaſury are blanched by combuſtion: then alſo is deducted the inferior expence out of the ſuperior ſum; and if he ought to be abſolutely diſcharged, AND HE HAS HIS QUIETUS, is wrote at the end of the accompt in capitals; or below, at the top of the under line, AND HE IS INDEBTED: and then the accompt being finiſhed, thoſe who have paid into the treaſury, are wrote oppoſite to that, which we long ago ſaid, was entered in the treaſury, and hitherto ſo carefully omitted, to prevent the tranſcribers making any raſures; which we likewiſe long

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ago ſaid, was to be particularly avoided in the numbers, names, and cauſes. (*a*)

CHAP. XXVIII.

That the oath having been once adminiſtered, on a lawful account, is ſufficient throughout.

THE accompt of the body of the county being compleated, as I ſaid, the ſheriff's oath is adminiſtered by the marſhal in the aforeſaid form, and being thus diſcharged, is diſmiſſed: but ſome were of opinion, that the ſheriff ſhould take a ſeparate oath of every particular, that was to be confirmed by oath; that as often as he ſhould ſay any thing was ſo, which could be confirmed only upon oath, ſo often he ſhould take it; but the ſubtilty of this appeared very pernicious to thoſe who were prudent and ſkilled in divine laws; ſince he had once taken his oath, that he had made a lawful account of every thing with a clear conſcience. Hereupon this opinion was ſoon deſervedly diſregarded, as well as its adviſer; and they are content with one oath, that is, once taken; becauſe a confeſſion upon oath, and an oath is one and the ſame thing. (*b*)

S. I perceive, by the dulneſs of your ſtile, that your diſcourſe is almoſt finiſhed; though the coming on of the night, and the more tedious trouble of a longer work, call us off to other buſineſs, and oblige us to reſt a little; yet I am deſirous, if you can do it, that you would ſettle the mind of your ſcholar, hitherto in ſuſpence, and wavering in regard to an expreſſion of yours, by ſhewing me how I am to take what I recollect you ſaid at the beginning of your diſcourſe, namely,

(*a*) This is, as I apprehend, the author's meaning, when the accompt was entered on the annual roll, it was to be wrote, ſuch a ſum in the treaſury, and it was uſual to leave a blank on the annual roll, in which blank, that ſum was entered upon the cloſe of the accompt, not before, leſt there ſhould happen to be occaſion afterwards to alter the ſum, or any emphatical words, by raſing the roll.

(*b*) Such jeſts as theſe were generally very agreeble to thoſe who lived at the time the famous author flouriſhed.

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that the whole deſcription of the exchequer was certain neſts o oaths, which are to be revealed when all the books are open, and the door ſhut.

M. Your queſtion is of great import, and muſt have another inquiry; nor am I bound, by the promiſe I made you, to explain it: I therefore omit it, for the preſent, and reſerve it for the debate of another day; indeed I am afraid if I lay more on your new pack, you will fall under the weight: beſides, ſhould I add the ſtudy of new things to what I have already ſaid for your remembrance, it would oblige you to diſlike both. Be therefore ſatisfied with what you have learned from me; for you have here as much as memory can contain in regard to what you thought was the beſt knowledge of the exchequer, in every reſpect, each particular ſeparate, and diſtinct, from the very beginning. But as to explaining to a nicety what may be thought neceſſary in length of time, neither the art of man, nor perhaps his whol-life, could accompliſh; for the various and unuſual incidents, have perhaps no precedent at all, or at leaſt ſuch as is hitherto unknown, which may the rather occaſion my being expoſed to the tongue of the malevolent, ſince many dubious queſtions, as yet not heard of, may hereafter be propoſed; concerning which, or the like, when nothing is to be met with here, they will ſmile, ſaying, This man began to build, and was not able to finiſh: I grant it; for I have purſued myſelf the worſt of maſters; but I have done, at your inſtigation, what I could, without guide or copy; for I have hewn timber out of a rugged and rough wood, with an hatchet ſent from the royal apartments, which are to be ſmoothed by the planer of a more ſkilful architect. When therefore the ſtructure of the royal manſion ſhall riſe out of theſe materials, he, who propoſed it, will be intitled to the firſt, though not to the greateſt thanks.

GOD ſave the KING!

The End of the SECOND BOOK.

WE whoſe names are under written, have compared this printed copy of the dialogue, with as much care and faithfulneſs, as the nature of the ſubject would admit of, with the manuſcript red book *of the exchequer, in the month of June, in the year of our Lord* 1707, *as alſo with the* manuſcript black book *of the exchequer of* receipt, *in the month of Auguſt, in the ſame year; one of us reading the book, the other, at the ſame time, inſpecting the copy.*

Tho. Madox. *Geo. Holmes.*

AN EPISTOLARY DISCOURSE

CONCERNING THE

Moſt ancient GREAT ROLL

OF THE

EXCHEQUER,

COMMONLY STYLED

The *Quinto Regis Stephani*,

OR

Fifth of KING STEPHEN.

LONDON;

Printed for JOHN WORRALL, MDCCLXVIII.

A N

EPISTOLARY DISCOURSE.

TO THE

Right Honourable and moſt noble Baron,

JOHN Lord *SOMERS*,

A PEER of GREAT BRITAIN,

THOMAS MADOX ſends greeting.

THE firſt duty incumbent on a good hiſtorian is, my lord, to convince his reader, that what he offers him is true and genuine. It is therefore of the greateſt conſequence to make uſe of, as much as may be, evidences and memorials

of indiſputable authority: thoſe are eſteemed memorials of indiſput-authority, that are wrote, firſt, when the matters contained in them were tranſacted; ſecondly, by public ſanction; thirdly, by thoſe who knew how to expreſs properly (accordingto the manner of the age) what was to be defined; forurthly, candidly and impartially, or without any deſign of concealment or impoſition: theſe four are beſt met with in public records. If it ſhould ſometimes happen to be doubtful, to what time, or King's reign, ſome record, having no date, ſhould be fixed; then it will be requiſite to uſe our utmoſt endeavours to remove that uncertainty, and ſet the matter in its true light; eſpecially if that record is to be often quoted, and is of great authority and conſequence. There is indeed ſome of this conſequence, in the record I am going to ſpeak of; there is alſo ſome of this uncertainty in the inſtance, which, moſt noble lord, I am going to ſubmit to you. Submit, I ſay, nay, with diffidence; for as you are of a moſt penetrating judgment, I am afraid leſt you, who are uſed to perſpicuity and certainty, ſhouldſt diſdain this diſcourſe of mine, as inſignificant, weak, and ſtuffed with conjectures: yet the known candour and indulgence of your lordſhip's diſpoſition, encourages me to proceed. You will therefore eaſily comprehend the ſubject, nor expect certainty from me in diſcuſſing a point, which is in its nature obſcure: wherefore relying on your candour, I will proceed to the queſtion.

You muſt know, that it was uſual to make a great roll every year in the exchequer, ever ſince it was firſt eſtabliſhed among the Anglo-ſaxons, which comprehended, in a regular method, the eſtimate, or accompt of the royal rents and profits in every county of England, anciently called The moſt perfect roll, or annual roll, afterwards, and to this day, The great roll of the exchequer, or pipe: many of theſe great rolls, wrote in the ſeveral years of King Henry the ſecond, King Richard the firſt, and King John, are kept in the treaſury, or pipe-office, at

at Weſtminſter; the moſt noble records of all thoſe, I remember to have ſeen, in any of the royal repoſitories, next to the revenue roll, which is called the book of domeſday, but not inferior even to that. There is likewiſe laid up among them a certain great roll, the moſt ancient of them all, commonly called, *Quintus R. Stephani*, or the fifth of King Stephen; a famous and magnificent monument of antiquity; whether we conſider the hand-writing, or the contents. This great roll (or we may call it bundle) conſiſts of ſixteen very large rolls, written on both ſides, faſtened at the top by a ſlip of parchment: every roll upon the file is not exactly of an equal length or breadth; but they are, one with another, four feet long, or high, (that is, from the top to the bottom) and about one foot broad: each roll conſiſts of two very large ſkins, unleſs any of them are torn off and loſt, as is the fourth roll on the bundle; one ſkin of which, (that is, half the roll) is loſt, the other remains.

* There is a repreſentation of the place, in which the aforeſaid great rolls are kept, engraven in braſs, at the head of this diſcourſe and in the middle of this page. I placed it in view, becauſe I thought it worthy the obſervation of the curious: that famous man John Talman, jun. thought it worth while, and adviſed me to it, a very great architect and limner, and who was very uſeful to me. Eaſily perſuaded by his advice, I ordered it to be drawn and engraven in braſs, that poſterity might have ſome idea of the form and ſituation. This is the meaning of the ſculptures: the caſe marked number I. has ten ſhelves or flats; on which are laid up the moſt ancient great rolls that are now extant, in the following order: the firſt ſhelf, or the higheſt from the ground, contains that great roll of the fifth year of King Stephen, commonly called *Quinto Regis Stephani*, and ſeventeen others; for I ſuppoſe that which lays ſpread open on the table, to be the fifth of Stephen: the ſecond ſhelf of the ſame caſe contains fifteen great rolls, that is, as many as now remain of King Henry the ſecond; for the firſt, as alſo the eighth great roll of that King, are miſſing: on the third ſhelf are ten

* *Theſe ſculptures are to be ſeen, as deſcribed above, in the original.*

great

great rolls of King Richard the firſt, and the two firſt of King John: the fourth, the reſt of King John the fifth, the former great rolls of King Henry the third: on the ſixth, and the others, are the remainder of the ſame King, and of King Edward the firſt: in ſhort, the great rolls of the ſucceeding Kings are in order in the II, III, and IV caſes.

To return to my ſubject: this great roll, which I am now ſpeaking of, the moſt ancient of them all, has the misfortune to be without a date; and, as far as I can find, bears no mark of time: it is therefore uncertain, not only to what year, but alſo to what King's reign it belongs, whether to Henry the firſt, or Stephen, or Henry the ſecond; whereupon it is quoted by ſome authors (*a*) as a roll of the firſt year of King Henry the ſecond; by ſome (*b*) as a roll of the fifth year of King Stephen; and attributed by others (*c*) to ſome year of King Henry the firſt. Though I have more than once, and carefully too conſidered it, yet I am at a loſs to what year or time to fix it: wherefore I thought it worth my while to put ſome conjectures together, and weigh them in an even ſcale, ſuch as I thought might throw ſome light upon this queſtion.

The firſt queſtion is, whether it be the great roll of the firſt year of King Henry the ſecond: if any believe it is, they ſeem to be ſupported by theſe reaſons: the great rolls, as well of the ſecond year as of almoſt all the other years of King Henry the ſecond, are extant in their regular order, preſerved together in the armory of the pipe, and in the ſame hutch; but there is no great roll to be found of the firſt year of that King, unleſs this be it: the reaſon they conjectured that this was it, was, becauſe it was uſually placed near and next before the great roll of the

(*a*) Spelm. Gloſſ. at the word Achata.

(*b*) Dugd. baronage in ſeveral parts of it.

(*c*) Prynne concerning Queen gold, in the append. p. 5.

ſecond

ſecond year; and likewiſe ſome ancient clerk of the exchequer was of the ſame opinion. For the ſake of argument, two remarks may be ſeen in the ſixth roll of this bundle, on the ſecond ſkin, one in a ſmall character of this purport; "In the time of King Henry the ſecond:" in another character, ſomewhat larger, thus, "The firſt year of King Henry the ſecond." I cannot think that theſe indorſements were wrote either at one time, or by one perſon; but each writing is like that which was in uſe about the time of King Henry the third, or Edward the firſt: if your lordſhip will give me leave, I will conſider this matter. If indeed the great roll of King Henry the ſecond, is really loſt, it will be to no purpoſe to endeavour to ſupply it by conceits, either by the aſſiſtance of the odd bundle placed near it in the archive of the pipe, or the uſual order of the hutch: but, perhaps, that old clerk's obſervation, or remark, which I mentioned above, will be held of greater conſequence, which fixes it to the firſt year of Henry the ſecond. I will ſpeak freely: theſe ſort of remarks of the old clerks are not always ſo exact, but that ſometimes they are found to be falſe, eſpecially when they concern things tranſacted long before their time; for inſtance, the bundle, or great roll of the thirty fourth year of King Henry the ſecond, in the roll of Berkſhire, on the back of the ſecond ſkin are wrote, in the character in uſe about the reign of King Edward, either the firſt or ſecond, or the beginning of the third, theſe words, "The ſecond year of King "Henry the ſecond;" and in an hand-writing of later times, as the reign of Henry the ſixth, or Edward the fourth, "The ſecond year of "Henry the ſecond;" which remarks are indeed ſo inconſiderable, that they have no tokens of probability, as will eaſily appear to any one that examines them.

I will produce better to your lordſhip, if I can: it is clear enough, I think, which is the great roll of the ſecond year of King Henry the ſecond: that moſt excellent man Alexander Swereford, the firſt author or poſſeſſor of the red book in the exchequer, has directed us to it, and has quoted many inſtances from it, of the eſcuage of King Henry the ſecond, and of danegeld (*a*) in this red book, which is alſo ſhewn in my hiſtory of the exchequer. (*b*) But thus the matter ſtands in reſpect of the ancient great rolls: the ſubſequent great roll did uſually correſpond with the preceding one in many particulars: ſo that a

(*a*) R. B. excheq. fol. 47. b. col. 1. ibid. fol. 186. a.

(*b*) Mad. hiſt. exch. chap. 17. ſect. 1. Kent, Ralph Picot, and chap. 16. ſect. 1.

careful

careful reader, knowing the roll of each year, will eaſily perceive, that the one follows the other; that is to ſay, by comparing the names of thoſe who accompt, and the amount of their debts, as they are entered upon the roll of each year; for the roll of the ſubſequent year begins the accompt were it ended in the preceding one, in this manner; ſuch a ſheriff preſenting himſelf at the exchequer, ſuppoſe for inſtance, in the firſt year of King Henry the ſecond, accompts for (I will make uſe of the exchequer phraſes) four hundred pounds ferme of ſuch a county; he pays at the receipt, or as they call it in the treaſury one hundred pounds; and his juſt allowances being made him, that is, money expended by the ſheriff, by the King's command, and other ſums to be lawfully laid out, to the amount of two hundred pounds, he owes [the King] one hundred pounds; we ſhall find a regiſter in this manner. in the great roll of the next year, that is the ſecond of Henry the ſecond, ſuch a ſheriff accompts for one hundred pounds of the old ferme of ſuch a county, or of the ferme of the year paſt; if he pays part, ſuppoſe half, it will be entered, in the treaſury fifty pounds, and he owes fifty pounds, if he pays the whole, ſuch a ſheriff accompts for one hundred pounds of old ferme, or of the laſt year's ferme, he has delivered it into the treaſury, and has his quietus: if he pays no part of it, ſuch a ſheriff owes one hundred pounds of old ferme. So in like manner of other accomptants, as well as the ſheriff, that is to ſay, *mutatis mutandis*. In like manner any one may find the great roll of the preceding year, from the great roll of the ſubſequent, by comparing them back again. The preceding one is an index to the ſubſequent one, and the ſubſequent to the preceding. Since therefore, learned lord, we have found out the roll of the ſecond year of King Henry the ſecond, we are to compare it with this moſt ancient roll, in order to ſee, whether this be the roll of the firſt year of King Henry the ſecond, as that is of the ſecond. I did compare them together long ago, but was not able to find any correſpondency between theſe two rolls; or could I diſcover any thing that induced me to think that they were rolls of two years joined together: but on the contrary, the one differed from the other as much as poſſible. The names of the accomptants, and of the debtors, that are contained in each of theſe two rolls, are very different, as alſo the ſums. Beſides, the author of the red book has particularly deſcribed the names of thoſe, who were the ſheriffs of the counties of England, in the firſt year of King Henry the ſecond, whoſe names, as it is reaſonable to believe, he took out of the annual roll of the firſt year of the ſame King (before

(before that roll was loſt): but thoſe ſheriffs names mentioned in the moſt ancient roll, are not the ſame as thoſe, which the author of the red book, took out of the roll of the firſt year of Henry the ſecond; nay, theſe are intirely different, as will evidently appear upon comparing them together. Here I will take notice of ſome ſheriffs of counties as they ſtand in the ancient roll; then the ſheriffs of the ſame counties, from the firſt year of King Henry the ſecond, from the authority of the red book; the like compariſon of the names of the ſheriffs will ſhew the difference there is in that reſpect, between that ancient roll and the ſheriffs of that firſt year, reckoned up in the red book. I will alſo add, if you will give me leave, ſome ſheriffs of the ſecond year of King Henry the ſecond in the margin, as they are ſet down in the great roll of that ſecond year; and comparing the ſecond year with the firſt, will ſhew the likeneſs there is between the ſheriffs of thoſe two years; but this, by the by, for example. This ancient great roll has Richard Baſſet, and Alberic de Ver, ſheriffs of Eſſex; the red book Richard de Lucy; the great roll of the ſecond year of King Henry the ſecond, Richard de Lucy: (*a*) Richard Baſſet, and Alberic de Ver, are entered ſheriffs of Huntingdonſhire, on the ancient roll; the red book has the ſheriff's name Pagan, the roll of the ſecond year of Henry the ſecond, the ſame Pagan. (*b*) We find Rualon, ſheriff of Kent, in the ancient roll; Ralph Pichot in the red book; Ralph Pichot in the great roll of the aforeſaid ſecond year. (*c*) You read of Milo of Glouceſter, ſheriff of Stafford, in the ancient roll; Robert, of Stafford, in the red book; Robert, of

(*a*) Richard Baſſet and Alberic de Ver, accompts for the ferme of Eſſex and Hertfordſhire. Great roll, 5 Ste. roll 6. a.

Richard de Lucy accompts for the ferme of Eſſex four times twenty, fourteen pounds twelve ſhillings and two-pence, by tale. Red book, excheq. fol. 184. b.

Richard de Lucy accompts for the ferme of Eſſex. Great roll, 2 H. 2. roll 3. a.

(*b*) Richard Baſſet and Alberic de Ver, accompt for the ferme of Surry, and of Cambrigeſhire, and of Huntingdonſhire. Great roll, 5. Steph. roll 5. a.

Huntingdonſhire, Pagan ſheriff accompts for four, twenty one pounds ſixteen ſhillings and ſeven-pence, blank for half the year. Red book excheq. fol. 185. a.

Huntingdonſhire, Pagan the ſheriff accompts for the old ferme, and the ſame ſheriff for the new ferme. Great roll 2 H. 2. roll. 2. a.

(*c*) Rualon ſheriff accompts for the ferme of Kent. Great roll, 5 Ste. roll. 7. a.

Ralph Pichot accompts for three parts of the year. Red book, fol. 184. b.

Kent, Ralph Pichot accompts for eight pounds, thirteen ſhillings and two pence, blank of old ferme, and the ſame ſheriff accompts for the new ferme. Great roll, 2 H. 2. roll. 12. b.

Stafford, on the great roll of the ſecond year. (*a*) The ancient roll mentions Geoffrey of Furnell, ſheriff of Devonſhire; the red book, Richard of Rivers; the great roll of that ſecond year, Richard Earl [of Redvers]. (*b*) The ancient roll repreſents Milo of Glouceſterſhire, ſheriff of Glouceſter; (*c*) the red book, Oſburt of Weſtbury; the roll of the ſecond year, Walter of Hereford. In ſhort, it is evident, from theſe examples I have produced, that this ancient roll, and the red book, which contains thoſe taken out of the great roll of the firſt year of King Henry the ſecond, differ very much one from the other: it is alſo clear, that the red book and the great roll, of the ſecond year of the ſame King, do agree together: what is the conſequence? evidently this; that this ancient roll is not of the firſt year of King Henry the ſecond; as well becauſe the ſheriffs, mentioned in this ancient roll, are not the ſame, as thoſe which the red book ſays were of the counties in that firſt year; as alſo becauſe the names of the ſheriffs of the year of this ancient roll, do not agree with thoſe which the indiſputable great roll of the ſecond year of that King has recorded as ſheriffs of the ſame ſecond year: I will add one more, in regard to that ancient great roll. I think indeed I can perceive ſome difference between the character or hand-writing of that roll, and of the rolls, as well of the ſecond year, as of other following years of King Henry the ſecond: that roll compared with any roll of the former years of King Henry the ſecond, differs more, if I am not miſtaken, in the manner of writing from thoſe, than thoſe rolls compared together, differ from one another: ſo that as far as may be conjectured from the appearance of the hand writing, I ſhould think that was more ancient than theſe. Conſidering therefore what I have ſaid above, it ſeems probable, that that ancient roll is not a roll of the firſt year of King

(*a*) Milo of Glouceſter accompts for—of old ferme of Staffordſhire, and the ſame for new ferme. Great roll, 5 Ste. roll. 8. a.

Staffordſhire, Robert of Stafford accompts for the ferme of Staffordſhire, in the treaſury, eighteen pounds, four ſhillings, blank, &c. Red book, fol. 185. a.

Robert of Stafford accompts for the ferme of Staffordſhire. Great roll, 2 H. 2. roll 6. a.

(*b*) Geoffreyde Furnell accounts for—of the old ferme of Devonſhire, and the ſame of the new ferme. Great roll, 5 Ste. roll 16. a.

Devonſhire, Richard de Riveres accompts for four times twenty, eighteen pounds, ten ſhillings and two-pence, of the ferme of the county. Red book. fol. 185.

Richard the earl accompts for the ferme of Devonſhire. Great roll, 2 H. 2. roll 10. a.

(*c*) Milo of Glouceſter accompts for the ferme of Glouceſterſhire [old and new.] Great roll, 5 Ste. roll 8. a.

Glouceſter, Oſburt of Weſtbury, ſheriff, accompts for two hundred forty-nine pounds, ten ſhillings and two-pence, blank for three parts of the year. Red book, fol. 184. b.

Walter of Hereford accompts for eight pounds, nine ſhillings and five-pence, blank of the old ferme of Glouceſterſhire; he has delivered it in the treaſury, and has his quietus; and the ſame accompts for the new ferme. Great roll, 2 H. 2. roll 10. a.

Henry

Henry the ſecond; neither indeed can I diſcover, that it properly belongs to any other year of the ſame King.

Next, we are to conſider, illuſtrious lord, whether that roll we are inquiring after, (I call it the ancient roll,) can properly be fixed to the fifth year of King Stephen. I know not how it happened to be fixed, by the moderns, to that fifth year; unleſs a certain memorandum, wrote on a ſmall piece of parchment, and annexed to the covering of this bundle, or ancient roll, gave riſe to it. It is given out, that ſir Simonds D'Ewes, knight, an antiquary of no ſmall account, long ago annexed it, or ordered it to be annexed. So that learned man, William Prynne (*a*) had been informed, and even I, at this time of day, have heard talk of it. The words of that memorandum are as follows, "The great "roll of the pipe of the fifth year of King Stephen, which roll, many "hundred years ago, was, through the miſtake of the librarian, marked "and entered on the ſecond ſkin of the ſixth roll, as if it had been the "great roll of the pipe, in the firſt year of Henry the ſecond; which "one may be very eaſily convinced, is moſt falſe, from the indiſputable "great roll of the pipe of the ſecond year of the ſame King; ſince "there are no accompts in them, which agree with what is expreſſed "in this roll, as is obſerved are in all the reſt; and the names of the "ſheriffs of the firſt year of the ſaid King, deſcribed in the red book "of the exchequer, folio 184. b. totally differ from thoſe ſet forth in "this roll; and laſtly, that this roll is of the fifth year of King Stephen, "and not in the time of Henry the firſt, may be moſt clearly gathered "from the ſecond membrane of the fourteenth roll, the firſt membrane "of the fifth roll, and from the firſt membrane of the twelfth roll, being "compared one with the other in this great roll." Thus far the learned D'Ewes; and he certainly took that roll, of which we are ſpeaking, to be the roll of the fifth year of King Stephen. I will endeavour to prove it in this manner; he ſays, It will clearly appear if any one compares, and conſiders the fourteenth, fifth, and twelfth rolls (the chief rolls of this file or bundle:) but becauſe he has not given the particular inſtances he had in his thoughts, it is difficult to determine, whether he judged rightly or not. I therefore conſidered it as cloſely and diligently as I poſſibly could, that I myſelf might find out, either the inſtances he hints at, or perhaps ſtronger reaſons for the opinion he is of. I have hit the nail on the head in what follows; Brientius, ſon of the earl, accompts for the ancient aid of the borough of Warrengford, for the third year, in the fourteenth roll, then of the aid of the year

(*a*) Prynne's appendix of Queen gold, p. 5.

paſt, and laſtly, of the new aid, that is, of the aid of the year of this great roll. (*a*) Obſerve, that the third year of the King expreſly mentioned, and the fourth year, under the name of the year paſt; then follows the new year, that is, the fifth. Hence it appears (according to D'Ewes's opinion,) that this ancient roll was the great roll of the fifth year of ſome King; but of what King? not of King Henry the firſt; the time does more than prevent it's being then, nor of King Henry the ſecond; the indiſputable great roll of the fifth year of King Henry the ſecond is in being in the archive of the pipe, therefore it muſt be of King Stephen. Beſides, another inſtance occurs, in the above quoted ſecond ſkin, of the fourteenth roll of this bundle, I find Hamo of ſaint Clare accompting for the aid of the city of Colcheſter, for three years lately aſſeſſed, almoſt in theſe words, viz. " of the old aid of the city of the third year, of the aid of the city of the year paſt, and of the aid of the city; of the third year, (as perhaps D'Ewes would have it) meaning the third year of King Stephen, " the year paſt," the fourth, and of the aid (you muſt underſtand, *of this year*) the fifth of that King. (*b*) I find only this agreeable to Dewes's opinion, on the firſt ſkin b. of the fifth roll, that, namely, John Belet, ſheriff of Surry, accompts there for the omitted or paſt danegeld of the fourth year (*c*) ſuppoſe of the year which preceded the year of this bundle, namely, the fifth of King Stephen. The ſheriff of Hampſhire accompts for the aid of

(*a*) And the ſame [Brientius ſon of the Earl] accompts for the old aid of the burgh [of Warrengford] of the third year, fifteen pounds, by the King's writ to the burgeſſes of Warrengford in pardons on account of their poverty, and he has his quietus.

And the ſame accompts for fifteen pounds of the laſt year's aid of the burgh, fifteen pounds to the burgeſſes of Warrengford, by the King's writ in pardons, on account of their poverty, and he has his quietus.

And the ſame accounts for fifteen pounds of the new aid of the burgh, fifteen pounds to the burgeſſes of Warrengford, by the King's writ in pardons, on account of their poverty, and he has his quietus. Great roll, 5 Steph. roll 14. b.

(*b*) Hamo of St. Clare accompts for the ferme of the city of Colcheſter, thirty-eight pounds, and fifteen ſhillings, and two-pence, in the treaſury, and he owes twenty-three ſhillings and ten-pence, blank.

And the ſame Hamo accompts for one mark of ſilver of the old aid of the city of the third year, he has delivered it in the treaſury, and has his quietus.

And the ſame Hamo accompts for twenty pounds of the aid of the city of the year paſt, thirteen pounds, two ſhillings and four pence in the treaſury.

And the ſame Hamo accompts for the aid of the city of Colcheſter, ten pounds, ten ſhillings, and ten pence, in the treaſury; and [that ſum] by the King's writ to the burgeſſes of Colcheſter in pardons, the ſum of nine pounds, eight ſhillings, and ſix-pence, and he has his quietus. Great roll, 5 Steph. roll 14. a. m. 2.

(*c*) And the ſame ſheriff [of Surry, that is to ſay John Belet] accompts for one hundred ſhillings for the danegeld of four years paſt; he has delivered it in the treaſury, and has his quietus. Great roll, 5 Steph. roll 5, b. Surry, m. 1. b.

the

the city of Wincheſter, of the third year, and of the omitted, or paſt aid, namely, the fourth, and of the neweſt, or lateſt aid, namely, the fifth, in the fourth roll of this bundle. (*a*) This I have ſaid according to the famous D'Ewes's opinion; but perhaps he has gone from his deſign; if ſo, he has certainly fell into a miſtake, which he might eaſily have avoided, had he read the great rolls with ſomewhat more attention, and obſerved the uſual method of accompting; for it is clear, that "the third year," does not ſignify, the third year of the King; but that paſt year, which is the third from the preſent, in the inſtances produced above: in this caſe of time they reckoned backwards in this manner; if they went backward in giving the accompt, they ſaid, "ſuch an one accompts for the ferme of the third year; "the ſame accompts for the ferme of the year paſt; and the ſame "accompts for the ferme of this year," or *mutatis mutandis*; but if they went forward in taking the accompt they ſaid "ſuch an one accompts "for the ferme, [or for the new ferme]; the ſame accompts for the "ferme of the year paſt; the ſame for the third year's ferme;" and ſo *mutatis mutandis*; if the caſe required it, they went on to the fourth or fifth year; for the method was thus: the arrears of fermes and debts were to be ſet forth, as well as of the fermes of the preſent year: and that was commonly done in the manner above mentioned; and therefore the words "accompts for the ferme [or of the ferme of this year]" mean the preſent year, or the year of the great roll "of the ferme "of the year paſt" the year next preceding; "of the ferme of the "third year," the year paſt, which is the third incluſive from the preſent, and in like manner of the fourth year, and ſo on. We may therefore very reaſonably ſuppoſe, that theſe, and ſuch ſort of phraſes, had their riſe merely from the method uſed in thoſe times of accompting or entering the accompts on the great rolls: the moſt ancient great rolls abound with inſtances of theſe and the like forms or phraſes; we will repeat them if you pleaſe. In the inſtance produced above of Brientius ſon of the earl, he indeed accompts for the aid of the borough of Warrengford in this manner; the accompt is made by going backwards; it begins from the fartheſt from the year paſt; he accompts for the aid of the third year, ſecond, and laſt, that is, the year of this great roll. In the inſtance of Hamo of ſaint Clare, fermer of Colcheſter, he accompts for three years

(*a*) And the ſame ſheriff accompts for one hundred thirteen ſhillings of the paſt aid of the city of the third year, he has delivered it in the treaſury, and has his quietus.

And the ſame ſheriff accompts for ſeventeen pounds and twenty pence, of the paſt aid of the city in pardons, &c. and has his quietus.

And the ſame ſheriff accompts for four twenty pounds, of the aid of the city, twenty pounds and thirteen ſhillings in the treaſury, and in pardons, &c. and owes thirty-one ſhillings. Great roll, 5 Steph. roll 4. b. Hampſhire.

aid

aid of Colcheſter, beginning from the year laſt paſt, ſince the third year, and then progreſſively to the ſecond, and preſent year. Moreover in the inſtance of the ſheriff of Hampſhire, he accompts for the aid of Wincheſter exactly in the ſame manner. To theſe inſtances I will add ſome more. The earl of St. Patrick accompted for ſeventy-two ſhillings and three-pence blank, in the ſecond year of King Henry the ſecond, the ferme of Wiltſhire, for "the third year;" he paid into the King's treaſury ſeventy-ſix ſhillings for thoſe ſeventy-two ſhillings, and three-pence, blank; and being diſcharged, departed. (*a*) "The third year," here ſignifies, not the third year of the reign of that King, for that was not then yet come; but the year paſt, the third from the preſent, that is to ſay, the laſt of King Stephen. The ferme of London is accompted for in the fourth year of the ſame King. It begins from the third year, then goes on to the ſecond, and laſt. Gervaſe, and John the ſon of Ralph, accompt for the third year, and ſecond; five others, mentioned below in the margin, having officiated as ſheriffs of the laſt year, namely, the year of that great roll. (*b*) I ſaid it began from the third year; but what was that third year? not the third year of this King's reign; but the year paſt, the third from the preſent; which third year from the preſent, was the ſecond year of the King's reign; and that it was really ſo, appears from hence. Gervaſe, and John above mentioned, were ſheriffs of London that ſecond year, (*c*) nor that only, for it is evident from the ſum. They owed the King ſeventy-one pounds, and twenty-two pence, blank, at the cloſe of their accompt, the ſecond year; and they anſwer the ſame ſeventy-one pounds and twenty-two pence, blank, of old ferme in this great roll of the fourth year (for no accompt is given of thoſe arrears in the roll of the third year which I examined.) Lady viſcounteſs Roan is entered accomptable for the ferme of the town of Hampton, of the third year,

(*a*) Wiltſhire, the earl of St. Patrick accompts for ſeventy-two ſhillings, and ſeven-pence, blank, of the ferme of Wiltſhire, of the third year ſeventy-ſix ſhillings for ſeventy-two ſhillings and three-pence, blank, in the treaſury, and he has his quietus. Great roll, 2 H. 2. roll 11. b.

(*b*) Gervaſe, and John ſon of Ralph, accompt for ſeventy-one pounds, and twenty-two-pence, blank, for the third year of the old ferme of London.

And the ſame accompt for the ferme of the year paſt.

The ſheriffs of London, Reiner, ſon of Berengary, and Geoffry Burſary, and Joſhua Vinitary, and Richard Vetal, and Brithmer de Haverhell, accompt for the ferme of London. Great roll, 4 H. 2. roll 1. a.

(*c*) London, Gervaſe and John, accompt for the ferme of London for three parts of a year—at the cloſe of their accompts; and they owe ſeventy-one pounds, and twenty-two pence, blank. Great roll, 2 H. 2 roll, 1. a.

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and of the old and new ferme, in the ſixth year of the ſame King, (*a*) certainly of the ferme of the fourth year of the reign of this King, and fifth, and ſixth. Gervaſe of Cornhill, accompted for the old ferme of Kent, for the third year in the great roll of the twenty-firſt year of the reign of King Henry the ſecond; and the ſame for the ferme of the ſame county for the year paſt; and Robert, ſon of Bernard, for the ferme of his county, for the preſent year, or the year of this great roll. (*b*) Here the words, "the third year," are to be underſtood, not the third year of Henry the ſecond's reigning, but his nineteenth year, namely, the third in reckoning backwards, from the year of that roll, the words, "the year paſt," the twentieth year of the ſaid King; the words, "this year," the twenty-firſt. Beſides, Galfrid, ſon of Peter, accompted at the exchequer for the old ferme of the third year of Northamptonſhire; and alſo of the ferme of the year paſt. (*c*) Here certainly, "the third year," does not mean the third year of the reign of King Richard the firſt, that was not then yet come; but the third year from the preſent, that is, the thirty-third, or laſt year but one of King Henry the ſecond; and in the ſame manner, "the year paſt," means the thirty-fourth or laſt of King Henry the ſecond: nor do I ſay this from conjecture only; the thing ſpeaks itſelf: for Galfrid, ſon of Peter, was ſheriff of Northamptonſhire that laſt year but one, and laſt (*d*); and indeed he was indebted to the King upon the cloſe of his accompt, in the ſum of fourteen pounds, and five ſhillings, blank, in the laſt year but one, and alſo the laſt year in another ſum of fourteen

(*a*) Lady viſcounteſs Roan, owes two hundred thirty-ſeven pounds and three ſhillings bl[ank] for the third year's ferme of Hampton, and the ſame owes two-hundred thirty-eight pounds, five ſhillings, and five-pence, bl[ank] of old ferme, and the ſame accounts for the new ferme, and one mark in alms, newly conſtituted for the knights templars; and eighteen pounds tale in tythes, conſtituted for the monks of Lira and Cormelia. Great roll, 6 H. 2. roll 3. b. tit. Hampton.

(*b*) Gervaſe of Cornhill, accompts for one hundred nineteen pounds, ſix ſhillings and two-pence, bl[ank] of the old ferme of the third year. Great roll, 21 H. 2. roll 13 a. Kent m. 1.

Gervaſe of Cornhill accompts for the ferme of the year paſt.—— ib. m. 1.

Robert, ſon of Bernard, accompts for this year's ferme of Kent. ib. m. 2.

(*c*) Galfrid, ſon of Peter, accompts for fourteen pounds, and five ſhillings bl. of the old ferme of the third year of—Northamptonſhire, and of fourteen pounds and five ſhillings, blank, for the ferme of the year paſt; he has delivered it in the treaſury, and has his quietus. Great roll, 1 R 1. roll 6. a.

(*d*) Galfrid, ſon of Peter, accompts for fourteen pounds, and five ſhillings, blank, of the old ferme of Northamptonſhire; he has delivered it into the treaſury, and has his quietus; and the ſame for the new ferme, that ſum in the treaſury, and in ſettled alms, and that ſum in terræ datæ, or lands granted away, and owes fourteen pounds, and five ſhillings, bl[ank]. Great roll 33 H. 2. roll 8. a.

Galfrid, ſon of Peter, owes fourteen pounds, and five ſhillings, bl[ank], of the old ferme of Northamptonſhire, and the ſame [accompts for] the new ferme, that ſum, in the treaſury, and ſettled alms; and that ſum in terræ datæ, or lands granted away, and he owes fourteen pounds, and five ſhillings, bl[ank]. Great roll 34 H. 2. roll—a. m. 1.

pounds,

pounds, and five ſhillings, blank; which two ſums he paid in full to the King, in the name of old ferme, in the great roll of the firſt year of King Richard the firſt, and being diſcharged, departed; as you may ſee below in the margin. The burgeſſes of Cambridge are entered, indebted to the royal Majeſty for the ferme of their borough, the ſame firſt year of King Richard the firſt, in theſe words, viz. "For this year, "for four years paſt, and for half the fifth year." (*a*) Here the words, "for this year," without doubt, ſignify, the firſt year of King Richard the firſt, and the words, "for four years paſt, and for half the "fifth," the five laſt years (except half a year) of King Henry the ſecond. Thus far of the method of reckoning the years backwards in entering the accompts. But in the reign of King Richard the firſt, and afterwards, that method by degrees grew obſolete; and from thence forward, they almoſt always reckoned according to the courſe of years of each King's reign. It is ſufficiently evident, unleſs I am much miſtaken, from what I have offered, that the famous D'Ewes's opinion, which I have mentioned above, is built upon no manner of foundation. I am beſides otherwiſe convinced of it: for example: Pagan Trencard is entered accomptable for the paſt danegelds of the Iſle of Wight, for five years, from the time of Hugh Gern, in this great roll, called The fifth of King Stephen; thus are the five years made out. The ſame Pagan accompts for the new danegeld of the iſle; and thus is the ſixth year made out. (*b*) It ſhould follow according to D'Ewes's opinion, that this was the great roll of the ſixth year of King Stephen: but nothing difficult will ariſe, according to the conſtruction I have put upon it: for this is all, namely, that here is an entry of the accompt, or rather a note of the danegeld of ſix years paſt. Beſides, Robert of Stanley is mentioned to have had the county of Glouceſter for five years, that were elapſed in this roll: for one of them, namely, the fourth, he was indebted to the King in fifty-three pounds, nineteen ſhillings blank; and for another, namely, the third, in ſeventy-eight pounds, twelve ſhillings, and two-pence blank; which two ſums, Milo of Glou-

(*a*) The burgeſſes of Cambridge owe ſixty pounds, bl. of the ferme of the borough of Cambridge for this year, and one hundred and four twenties, bl. for the four years paſt, and thirty pounds, bl. for half a year of the fifth year's ferme. Great roll, 1 R. 1. roll 11. a.

(*b*) The Iſle of Wight, Pagan Trencard owes four pounds for the paſt danegeld of the iſle of five years of Hugh Gern's time.

And the ſame Pagan accompts for the new danegeld of the iſle, nine pounds, and eight ſhillings, in the treaſury; and thirty-two ſhillings by the King's writ to William de Vernun, in pardons; twelve-pence to Ralph de Belingeturt, and he has his quietus. Great roll, 5 Step. roll 4. b. Hampſhire.

ceſter

ceſter, inſtead of Robert (that is to ſay, as his ſurety) paid the King at the exchequer. The aforeſaid Milo, as ſheriff, at the ſame time anſwers the King, in his own name, for two other years, in the words following, "of old and new ferme," (*a*) and thus all the ſeven years are wholly anſwered for. But it will not hence certainly follow, that this is the great roll of the ſeventh year of any King. But the matter cannot here be explained by any other method, than by the rule, which I have above laid down. Let what has been ſaid ſuffice for this queſtion.

I am next to enquire, whether this ancient roll be of any year of King Henry the firſt. At preſent, by your lordſhip's leave, I will examine the negative part of the queſtion, for the ſake of proof. I ſubmit, that it is not a roll of any year of King Henry the firſt. Firſt, becauſe the name of King Henry the firſt does not ſo much as once occur in it. Secondly, becauſe this roll ſeems moſt aptly to relate to ſome year a little after the arrival of the Empreſs Maud into England; and ſhe came into England about the beginning of the reign of King Stephen (*b*), in order to procure the royal crown he was in poſſeſſion of; and the arrival of the Empreſs into England is not mentioned in this ancient roll, as a tranſaction of ſo long ſtanding (*c*). Now I will offer ſomething on the other ſide of the queſtion. I ſhall anſwer that former argument in this manner; not only the name of King Henry the firſt is not to be met with in this roll, but neither of that Stephen, Henry the ſecond, or any other King. There are alſo rolls of many of the years of Henry the ſecond, in which no mention is made of the King's name; yet there is no diſpute about the time of thoſe rolls; becauſe that appears in another manner. That ſilence therefore, if there be any, is neither for or againſt this matter. The ſecond argument may be obviated in this manner: it muſt be allowed, that the Empreſs came into England, to ſet up her right againſt King Stephen. But ſhe alſo came into England

(*a*) Milo of Glouceſter accompts for ſeveny eight pounds, thirteen ſhillings, and ten pence, bl. of the old ferme of Staffordſhire; he has delivered it in the treaſury, and has his quietus; and the ſame of the new ferme.

And the ſame ſheriff accompts for fifty-three pounds, and nineteen ſhillings, bl. for the ſurety of Robert of Stanley, of the old ferme of the fourth year; and for ſeventy-eight pounds, twelve ſhillings, and two pence bl. of the old ferme of the third year, for the ſurety of the ſame Robert; twenty-nine pounds, and eleven ſhillings, bl. and he owes one hundred pounds, and forty ſhillings, bl. Robert of Stanley owes twenty marks of ſilver, for the county, for five years; and he held it only ſo long Great roll, 5. Ste. roll 8. a.

(*b*) ——County, &c. after King Henry's daughter, who was Empreſs of Germany, but was then counteſs of Anjou, came to London. Sax. chron. p. 241. n. 45. in the year of our Lord 1140.

(*c*) —— of the King's gifts, which the King gave him, when the Empreſs came into England. Great roll, 5 Ste. roll 16. a. the perſon's name who here accompts is wanting, part of the membrane being torn.

before that time, namely, after the death of the Emperor, her huſband, in the reign of King Henry the firſt. As he of Huntingdon, the Saxon chronicle, and others (as I remember) teſtify. (*a*) And indeed I think, that the arrival of the Empreſs into England, which is mentioned in our ancient roll, is rather to be underſtood of that firſt arrival. But I ſubmit it to the determination of the learned readers.

And now, noble lord, I have a mind to try your patience for the affirmative part of the queſtion. I urge therefore, that this is a roll of ſome year of King Henry the firſt; and I will endeavour to prove it by ſome arguments and proofs, which I ſhall take from the very body of the roll itſelf. It is not in the leaſt doubted, but that great rolls were deviſed in the time of King Henry the firſt, and long before. Richard, the King's treaſurer, makes mention (*b*) of the annual rolls of King Henry the firſt; and Alexander of Swereford avers, that he had ſeen ſome of them (*c*); moreover, he takes it for granted, that annual rolls were deviſed in King William the firſt's reign, although he knew no one in his time had ſeen them (*d*). But as to the annual rolls of King Richard, King William the firſt, King William the ſecond, and King Henry the firſt; it is not in the leaſt to be wondered at, if after the outrages of the wars, which worried this moſt unhappy kingdom, in King Stephen's reign, many of them, or all, were loſt, or eſcaped the notice of Alexander, who lived many years after; it is rather ſurpriziug, that any of them were left even in his time. I now haſten to the proof above propoſed.

Thurſtan, archbiſhop of York, paid the King a debt of ten pounds in this roll, which the King lent him in Normandy (*e*). It is doubted whether Thurſtan had audience of King Henry the firſt, or indeed of Stephen in Normandy, that is to be inquired into. Thurſtan was pro-

(*a*). King Henry in the twenty-ſixth year of his reign ——— married his daughter, the dowager empreſs, to as great a man (as aforeſaid). Hunt. B. 7. p. 383. n. 1, 10.

In the year 1127 ———, &c. King Henry paſſed this Year till after Auguſt in Normandy: but he afterwards came into this land and his wife accompanied him, as alſo his daughter whom he had lately married to Henry, Emperor of Lorrain. Sax Chron. p. 230.

(*b*) Dial. excheq. B. 1. Chap. 7. By whom or wherefore, &c.

(*c*) ——— Though I inſpected ſome annual rolls of the ſame [Henry the firſt]. Red book fol. 47. a. col. 2.

(*d*) Nor were his annual rolls [of King William the firſt] ſeen by any in my time. Red book, fo. 47. a.

(*e*) Thurſtan, archbiſhop of York, accompts for ten pounds, which the King lent him in Normandy, ten pounds by the King's writ to the ſame archbiſhop in gifts, and he has his quietus. Great roll, 5. Ste. roll 3. a. Yorkſhire.

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moted to the ſee of York, in the year of our Lord 1114 [the fifthteenth year of King Henry the firſt] (*a*); and having experienced fickle fortune, after he had enjoyed the ſee about twenty-five or twenty-ſix years (including the time of his expulſion) he departed this life in the month of February, in the year of our Lord 1140, [the ſixth of King Stephen]; as the famous Godwin, and others, have related (*b*). But though Thurſtan lived in the reign of both thoſe princes; yet, in my opinion, it is very material on which ſide of this queſtion we fix it; for unleſs I am much miſtaken, the arguments on one ſide, will out ballance. Thurſtan lived only five years and odd months of King Stephen's reign, and that too, the latter end of his life: many more of King Henry the firſt's, namely, the former part of his prieſthood, before he grew old. It likewiſe appears, that Thurſtan was in Normandy [which I will ſhew by and by] in the reign of King Henry the firſt; but as far as I can trace, there is no remembrance of his having been there in the reign of King Stephen. Indeed I found that King Stephen was once certainly going into Normandy. The Saxon chronicle relates his having paſſed over the ſea thither, in the year of our Lord 1137. (*c*) But, that Thurſtan was there then, or had any audience of him, I have not yet diſcovered. But I think the fact itſelf is hardly credible, viz. that Thurſtan went to Normandy, or that he did ſtay there in the year 1137, which is but three years from 1140; when worn out with age and infirmities, he died in England. Perhaps to this will be objected, that Thurſtan, the very next year, namely, 1138, was ſo well recovered, that he might eaſily have taken a voyage into Normandy; for that year he raiſed and headed an army to repulſe David King of Scotland, who was making an invaſion on England, over whom, it is ſaid, he gained the victory. To which I anſwer; it is not agreed among the hiſtorians, that Thurſton was perſonally preſent at the marching of that army, or at the engagement. For Roger of Hoveden, a Yorkſhire-man, and ſkilful beyond any others in the northern affairs, as well of his own, as of the preceding times, relates, That Thurſtan was then detained by illneſs. (*d*)

(*a*) Thurſtan the King's chaplain was choſen archbiſhop of York on the day of the aſſumption of the holy Mary at Winchester. Hov. annal. p. 1. p. 473. n. 10.

(*b*) Godwin of the prel. of the province of York p. 31.

(*c*) In the year 1137. ——— Sax. chron. p. 238.

(*d*) But when the archbiſhop of York could not be preſent at the engagement by reaſon of his illneſs, he ſent in his ſtead Ralph biſhop of Orkney. Hoved. p. 1. p. 483. n. 20.

Beſides, King Henry the firſt uſed to go often, and for a long time together into Normandy. Nay, Thurſtan had audience of him there more than once. Thurſtan accompanied King Henry the firſt, when he went by ſea to Normandy, in the year of our Lord 1116. (*a*) Eadmer alſo mentions, if I underſtood his meaning (*b*), his being with the King in Normandy, about the ſame time: and Thurſtan went again to Normandy, in the eighteenth year of King Henry the firſt, and found the King at Roan. (*c*) But it ſeems probable from what I have ſaid above, of Thurſtan the archbiſhop, that King Henry the firſt, not Stephen, lent him the ten pounds in Normandy, mentioned in our ancient roll.

This great roll mentions Stephen earl of Britagne: the King forgave him ſix marks of ſilver (*d*). Earl Stephen ſeems to have enjoyed the King's favour. The King forgave Godric of Beleſby twenty ſhillings (*e*) at the entreaty of the earl: which earl Stephen was the third of that name, who died in the year of our Lord 1138, if Auguſtine of Paz is to be credited. (*f*) But here is ſomething uncertain: earl Stephen lived in the reigns, both of King Stephen, and King Henry the firſt. The year of earl Stephen's death happened in the third year of King Stephen: I own it: but as earl Stephen lived many more years in the reign of King

(*a*) Henry King of England went over ſea at the ſame time, accompanied by Thurſtan the elect biſhop of York. Hoved. ib. p. 474. n. 10. in the year of our Lord 1116.

(*b*) Thurſtan being reſtored to the dignity of Pontiff, came into England about the month of February, that is to ſay, in the ſecond year in which he himſelf came to the King in Normandy. Eadm. new hiſt. B. 5. p. 121. n. 20.

(*c*) Which when known to Thurſtan archbiſhop of York leaving England, went over ſea, and came to Roan, when upon being reprimanded by the King for coming over without his advice, he was ſtopped from going farther. Eadm. new hiſt. B. 5. p. 123. n. 1. Eadmer has not expreſsly laid it in the year of our Lord 1118, but he obſerves that Thurſtan's voyage was a little while after Queen Maud's death, whom the hiſtorians agree did die about that time.

(*d*) And the ſame ſheriff [Rainer de Bada] accompts for ſeventy-four marks of ſilver and an half of the fines of Richard Baſſet for diſpirited men, ſeventeen pounds in the treaſury, and forty ſhilling by the King's writ to Alan of Moncells, in pardons; five marks of ſilver to the King of Scotland, ſix marks of ſilver to earl Stephen of Britagne, forty ſhillings to Pagan, Peur, &c. Great roll. 5 Ste. roll 12. b. m. 1. linc'.

(*e*) Godric of Beleſby accompts for five marks of ſilver of the ſame fines [that is to ſay of Richard Baſſet and William de Albany] twenty ſhillings by the King's writ to the ſame Godric in pardons out of affection for the earl of Britagne, and he owes forty-ſix ſhillings, and eight pence. Great roll, 5 Ste. roll, 12. b. m. 1. linc'.

(*f*) Stephen, the third of the name, ſon of Eudon, firſt earl of Donnone, or Pentheur, and of Onguen of Cornouaille, enjoyed his part of the ſaid earldom, with his brother Geoffrey, Alan Robert Derien and Briend, who were all called earls of Britagne, made equal partition of the paternal and maternal ſucceſſion. Geneal. hiſt. of Brit. p 9. the ſaid Stephen, who was called earl of Bretagne, departed this life in the year 1138, and his body was buried in the cathedral church of ſaint Brieue, near duke Eudon, his father, ib. p. 10.

Henry

Henry the firſt, than in the reign of King Stephen, it ſeems ſo much the more likely that what I have cited ſhould be rather underſtood of King Henry the firſt, than of King Stephen, inaſmuch as the earl lived longer in the reign of that King, than of this.

Long before this great roll was made, the biſhoprick of Durham was vacant, and fell into the King's hands. And alſo the very year of this roll, the biſhoprick not being conferred on any one, the income or rent of the preſent year, and the arrears of the preceding years, were paid to the King. Geoffry Eſcolland anſwers for the old and new ferme of the biſhoprick at the King's exchequer, and for the reſt of the profits, in the method to be ſeen lower in the margin, (*a*) at the ſame time Anchetill of Worceſter, accompted to the King, for the old and new ferme of the manors of the biſhoprick, lying in other counties (as I gueſs) beyond Durham. (*b*) But it is worth obſervation, that the vacancy of the

(*a*) Geoffrey Eſcoland accompts for four twenty pounds, and fifty-eight ſhillings, and ſixpence, of what remained of the ferme of the biſhoprick, in the biſhop's time; but William de Pontearc had thirty pounds out of them, for which he accompted, when earl of Glouceſter, and Brienty audited the treaſury accompt at Wincheſter; and the ſame Geoffrey accompts for the new ferme of the biſhoprick three hundred thirty-ſix pounds, ten ſhilling and thirteen pence in the treaſury, and eight pounds thirteen ſhilling and one penny in ſettled liveries; and thirty-three ſhillings for the King of Scotland's corrody, to return from court, and eighteen ſhillings and ſeven-pence for the archbiſhop of York's corrody, to go to and return from his biſhoprick, and twenty-two ſhillings and nine-pence for the liveries of Walter Eſpec and Euſtace John's ſon, while they were upon the King's neceſſary occaſions in the biſhoprick, and four pounds and three ſhillings, without a tally, to make up the full ſum for the year paſt, when the earl of Glouceſter and Brienty, the earl's ſon, audited the treaſury accompt, and thirteen pounds, ſix-ſhillings and eight-pence, by the King's writ, to the prior of St. Oſwald in aids, and fifteen pounds and fifteen ſhillings for ſixty-three days for the livery of William de Pontearc, when he came from Normandy, in order to take upon him the biſhoprick of Durham, and one hundred ſhillings for three churches, which were fermed by the King's writ, to three clerks of the biſhoprick, and he owes forty-one pounds, thirteen ſhillings and eight-pence.

And the ſame time Geoffrey accompts for one hundred ten pounds, five ſhillingns and five-pence for corn for the biſhoprick's cattle, four times twenty pounds, thirty-ſix ſhillings and three-pence in the treaſury, and owes twenty-eight pounds, nine ſhillings and two-pence.

And the ſame Geoffrey accompts for fifty-eight pounds, ſix ſhillings and eight-pence, for the aid of the knights of the biſhoprick, forty-five pounds, ſixteen ſhillings and eight-pence, in the treaſury, with the knights of Lindeſia, and owes twelve pounds, and ten ſhillings.

And the ſame Geoffrey accompts for forty-ſix pounds, five ſhillings and four-pence, for Tainœ and Dreinœ, and Smlemanæ, between Tine and Tees, thirty-ſix pounds in the treaſury, and owes ten pounds, five ſhillings and four-pence. Great roll, 5 Ste. roll 13. b. in the accompt of the biſhoprick of Durham.

(*b*) Anſchetill of Worceſterſhire accompts for ten pounds of the old ferme of the manors of the biſhoprick of Durham, he hath delivered it in the treaſury, and has his quietus.

And the ſame of the new ferme two hundred and nine pounds and ten ſhillings in the treaſury, and ten ſhillings and eight-pence for the King of Scotland's corrody, and twenty ſhillings by the King's writ to Bernard Clerk in a certain church in aids, and ſeventy pounds in repairs of the houſes of Hovenden, and forty ſhillings in the purchaſe of two ſhips, and he owes nine ſhillings and four-pence. Great roll. 5 Ste. roll 13. b.

biſhoprick

biſhoprick of Durham, during which the annual rents of it were paid to the King in this great roll, is the ſame vacancy that happened before chancellor Geoffrey was promoted to the ſee of Durham. That appears from this great roll, and the hiſtory of Durham, being compared together. I juſt now took notice of what this great roll declares. The hiſtory of Durham aſſerts, that the biſhoprick, was then committed for ſome time to that Geoffrey, whom he calls Eſcorland, and to one Hugh of Annundavil. (*a*) This great roll alſo diſcovers, that Geoffrey, the King's chancellor, then had in cuſtody, in the King's name, of the biſhopricks of Coventry and Hereford; (*b*) not yet (as is to be thought) promoted to the biſhoprick of Durham; for he is only called in the year of the great roll, the King's chancellor; at which time, the biſhoprick of Durham, as I ſhewed before, was actually vacant, and indeed the hiſtory of Durham relates, that chancellor Geoffrey was choſen biſhop of the ſaid ſee, in the year of our Lord 1133, the thirty-third of King Henry the firſt, (*c*) the biſhoprick therefore of Durham was not given to chancellor Geoffrey the year in which this great roll was wrote; nor was the thirty-third year of King Henry the firſt then yet come: all theſe things were tranſacted in the reign of Henry the firſt.

Certain ſums of money were placed to the ſheriffs of London's account the year of this roll, which they had laid out the ſame year in providing cloth, and other neceſſaries, for the uſe of [Robert] earl of Normandy. (*d*) Here it is proper to obſerve ſome things in the outſet. No one is ignorant, that the ancient princes of Normandy were every where called earls, as alſo dukes, or marcks, or marqueſſes; and he

(*a*) But he [that is to ſay, Randolph Flambard] being dead, the biſhoprick was entruſted with two barons, that is to ſay, Hugh of Annundavill and Geoffrey Eſcorland, the elder, to collect the income to the King's uſe: and the biſhoprick was vacant for five years, except one month. Hiſt. Dunelm. ap. Angl. Sac. t. 1. p. 709.

(*b*) Mad. hiſt. excheq. chap. 5, ſect. 4.

(*c*) Geoffery, King Henry's chancellor, who was called Rufus, was choſeu biſhop of Durham in the 1133 year of our Lord's incarnation, and was conſecrated by Thurſtan, archbiſhop of York, in whoſe third year King Henry died in the 1135 year of our Lord's incarnation. Hiſt. Duelm. Angl. Sac. t. 1. p. 709.

According to Matthew Paris, in the year of our Lord 1133; according to Roger Hoveden, in the year 1134. Hoved. hiſt. p. 1. p. 480. n. 20.

(*d*) The four ſheriffs of London accompt for the ferme of London ſixteen pounds, thirteen ſhillings and nine-pence bl. in the treaſury, and twenty-three pounds and ten ſhillings tale for the archbiſhop of Roan's livery, and for cloth for the earl of Normandy. Great roll, 5 Ste. roll 15. a. and twelve pounds to Fulcherd by the King's writ, in payments for *eſtruct* of the earl of Normandy, ib. indeed what this word eſtruct means I do not in the leaſt underſtand.

too,

too, of whom we are ſpeaking, Robert, the brother of King Henry, is almoſt always called earl by the cotemporary hiſtorians. (*a*) But I muſt not conceal that the words which I have put at length [*comitis Normaniæ*, the earl of Normandy] is wrote ſhort in the roll I juſt before cited as [*com. Norman.*] which perhaps may be thought ſomewhat doubtful or uncertain; but, in my opinion, there is nothing to heſitate upon: at leaſt I could find out no better reading than what I have given. Beſides, it muſt be remembered, that it was the cuſtom among the ancients, for the ſheriff to be allowed thoſe ſums of money which he had expended in obedience to the King's commands, during the year of his office, in the accompt he gave in for that year at the exchequer. Which is done by the ſheriffs of London in the inſtance above produced. Having premiſed this, we muſt call to mind the unhappy condition of Robert earl of Normandy, mentioned in this ancient roll. He was the eldeſt ſon of William the conqueror, being ſubdued in battle by King Henry the firſt, his youngeſt brother, he was brought priſoner to England. There having lived many years, after the loſs of his liberty, and (as is ſaid) his eyes, he died, during his confinement in Cardiff caſtle, in the month of February, in the year of our Lord 1134, and laſt year but one of the reign of King Henry the firſt. (*b*)

It is recorded in the great roll of the ninth year of King Richard the firſt, that the manor of Doncaſter, ſituated in a field in Yorkſhire, was

(*a*) Earl Robert, the King's ſon, his coming into England alarmed the whole royal court. Eadm. new hiſt. p. 48. nu. 50.

A report was ſpread, that Robert earl of Normandy was upon his arrival from Apulia. Malm. hiſt. Hen. 1. p. 156. nu. 10.

Robert coming to Normandy, retook his county without any oppoſition. Malm. ib. p. 156. nu. 20.

He is called Richard earl of the Northmans by Sigebert in the year 1006, William earl of the Northmans in the year 1066, alſo Robert earl of Normandy in the year 1096, whom alſo Anſelm the abbot of Gembleurs calls, Robert earl of Normandy. Fulchery of Chartes Robert earl of Normandy. Valeſii notit. Gall. p. 380. col. 1.

(*b*) 1134 years from the incarnation of our Lord, and twelve from the indiction, Robert, the ſecond duke of the Normans, eighteen years after he was taken at Tinchebray, and confined in his brother's priſon, died at cardiff in Wales in the month of February, and reſts buried in the monaſtery of the monks of ſaint Peter the apoſtle at Glouceſter. Order, vit. f. 893. d.

ſeized

ſeized upon by King Henry the firſt, for five hundred marks of money; (*a*) but the ſeizure of that manor is mentioned in eloquent terms in this ancient roll of ours, as appears here in the margin. (*b*) That manor was pledged to the King as a ſecurity for the aforeſaid debt. And in proceſs of time, the debt itſelf, or fine, was omitted to be annually entered on the great rolls; and afterwards, the iſſues or profits of Doncaſter were always accompted for to the King in the great rolls of Henry the ſecond, as if the King had held them in his demeſne. (*c*) Thus therefore the matter ſtood, Robert Foſſard paid a fine (as they term it) to King Henry the firſt, of five hundred marks of ſilver for the ſeizin of his lands: and for the ſecurity of that ſum, delivered up the manor of Doncaſter to the King, redeemable upon Robert's paying that money in one groſs ſum. But the words of the cited record being conſidered, there is room to believe, that this agreement was then lately entered into between the King and Robert Foſſard. Robert paid a fine for the new and late ſeizin of his land [for the firſt recovery of his land] then he granted Doncaſter to the King; that is, to the King then on the throne; for if that agreement had continued to the time of King

(*a*) Robert of Turnham accompts for one hundred marks for the acquittance of the manor of Doncaſter, becauſe it is of his wife Joan's inheritance, which manor was mortgaged to King Henry the firſt for one hundred marks. Great roll, 9 Rich. 1. roll 4. a. Yorkſhire, cited in Mad. hiſt. excheq. chap. 13. ſect. 8.

(*b*) Robert Foſſard accompts for forty-one ſhillings and eight-pence for the firſt recovery of his land, twenty ſhillings in the treaſury, and he owes twenty-one ſhillings and eight-pence.

And the ſame owes five hundred marks of ſilver to have his land again, except Doncaſter, which he granted to the King to hold in his hands for twenty years, and if he then returned the five hundred marks of ſilver at one payment, he ſhould have Doncaſter again. Great roll, 5 Ste. roll 3. a. Yorkſhire.

(*c*) Doncaſter, Eudo the warden accompts for ſixty-ſix pounds, thirteen ſhillings and four-pence tale of the ferme of Doncaſter, he has delivered it in the treaſury, and has his quietus. Great roll, 17 H. 2. roll 5. a. Yorkſhire.

Ralph Clerk of Doncaſter accompts for ſixty-ſix pounds, thirteen ſhillings and four-pence, tale of the ferme of Doncaſter, he has delivered it in the treaſury, and has his quietus. Great roll, 27 H. 2. roll 3. b. Yorkſhire.

Ralph Clerk and Adam of York, and William Prat accompt for ſixty-ſix pounds, thirteen ſhillings and four-pence, tale of the ferme of Doncaſter, they delivered it into the treaſury, and have their quietus. Great roll, 28 H. 2. roll 4. b. Yorkſhire.

Stephen

Stephen, and had been found among the great rolls; it is likely, that it would have been ſaid, not to the King ſimply, but to King Henry the firſt; as is done in the great roll of King Richard the firſt, above quoted; wherefore the matter compared together, I have not the leaſt doubt, but that the King mentioned in this agreement, was Henry the firſt.

Hervey the firſt, biſhop of Ely, is ſet down in this book, as tranſacting various kinds of buſineſs with the King. He accompts with the King for ſeven gold marks and an half for the place of William, his nephew. He pays part of the money, and is entered debtor for the reſt. He agrees with the King for the privilege of the ſoldiers of his biſhoprick, and of the abbacy of S. Catherick. Laſtly he accompts with the King for the ſum of one thouſand pounds for the King's ordering the ſoldiers of the biſhoprick of Ely, to keep guard in the iſle of Ely as uſually in Norwich caſtle: He paid part of that ſum, namely, three hundred and ſixty-four pounds, into the King's treaſury, and is entered, bound to the King for the remaining part of the ſum. (*a*) It is certain Henry was alive the year of this roll: for he here mentioned accompting and paying money into the exchequer, which are actions of a living man: and he died, according to ſome, in the year of our Lord eleven hundred and thirty-one [about the thirty-ſecond year of King Henry the firſt] according to others, in the year of our Lord eleven hundred and thirty-three, the beginning of the thirty-fourth year of the ſame King. (*b*)

(*a*) Hervey, biſhop of Ely, accompts for ſeven marks of gold and an half, for the ſervice of William his nephew, eighteen pounds in the treaſury, for three marks of gold; and he owes four marks of gold and an half, and four times twenty, and twelve pounds and ten ſhillings.

And the ſame biſhop owes one hundred marks of ſilver for a certain old agreement entered into between him and the King in Normandy.

And the ſame biſhop owes one hundred pounds for a plea, between him and the abbot of St. Edmund, and the abbot of Ramſey.

And the ſame biſhop owes two hundred and forty pounds for the King's declaring him diſcharged from the ſurplus of the knights of his biſhoprick, and for the abbacy of Catherick, being diſcharged from *ward-penny*.

And the ſame biſhop accompts for one thouſand pounds that the ſoldiers of the biſhoprick of Ely, be upon guard in the iſle of Ely, as they were in Norwich caſtle; three hundred and ſixty-four pounds in the treaſury, and he owes ſix hundred and thirty-ſix pounds. Great roll, 5 Ste. 5. roll. a. tit. Cambridgeſhire.

(*b*) Hervey (biſhop of Ely) died on the thirtieth day of Auguſt, in the year of our Lord 1131, according to Winchelcomb's annals, who continued the hiſtory of Florence and the curſory one of Ely. Ang. Sacr. tit. 1. p. 615. but in the year of our Lord 1133, according to Ricard's continuation of the Hiſtory of Ely. ib. p. 618.

Beſides, the ſheriffs of London accompting for their office in the exchequer, the expence (among many others) they had been at, in preparing as well oyl for the lamps, which burnt at the Queen's ſepulchre, as for cloth to be laid on the ſame ſepulchre, were allowed in their accompts in this ancient roll. (*a*) Hence I infer, that the Queen died very lately, and within the county (we call it bailiwick) of the ſheriffs of London; and alſo about the very year, for which the ſheriffs here give their accompt. By "Queen," I underſtand Queen "conſort," or ſhe who was "conſort" at the time of her death, but we are enquiring whoſe Queen? either of the Queens of King Henry the firſt, or of King Stephen? It is not King Stephen's, if I am right in my gueſs; for ſhe died the third day of May, in the year of our Lord eleven hundred and fifty one, the ſixteenth current year of King Stephen. (*b*) So that her death does not fall within our preſent period of time; nor is it very probable that ſhe is meant here: nor Adelaid, or Alicia the ſecond wife of King Henry the firſt; for ſhe was married to him juſt before the purification of the holy Mary, in the year of our Lord eleven hundred and twenty-one, on the turn of the twenty-ſecond year of King Henry the firſt, (*c*) and ſurviving him, ſhe was afterwards married to William of Albany, with whom ſhe lived, as report goes, many years, ſo not comprehended within our period. The Queen therefore we are inquiring after (unleſs I am out in my gueſs) is Maud, the firſt Wife of King Henry the firſt, who died at Weſtminſter, the twenty-ninth or thirtieth day of April, in the year of our Lord Jeſus Chriſt, one thouſand one hundred and eighteen, on the turn of the eighteenth year of the reign of King Henry the firſt; ſhe was buried in Weſtminſter Abbey, within the bailiwick or diſtrict of the ſheriffs of London and Middleſex;

(*a*) And fifteen ſhillings and two-pence half-penny for oil to be burnt before the Queen's tomb. Great roll. 5 Step. roll 15. a. London.

And three ſhillings tale for the buying of cloth to lay upon the Queen's tomb. ib. near.

(*b*) Sandford's geneal. hiſt. p. 40.

(*c*) ——— and he was married to Athelis before the feaſt of Candlemas at Windſor, who was afterwards made Queen, and ſhe was the duke of Lorain's daughter. Sax. chron. p. 222. in the year of our Lord 1121.

as the Saxon Chronicle, Eadmer and Roger of Hoveden certify. (*a*) Indeed William Prynne, a moſt indefatigable antiquary, having examined the contents of our ancient roll, concerning the Queen, then lately dead; as alſo concerning Hervey biſhop of Ely, he has not heſitated to declare, that it is a roll of the time of King Henry the firſt; nay of the eighteenth year of the ſame King. (*b*) I dare not avouch this matter, or confidently maintain it.

Hitherto, moſt noble Lord, I have weighed as in a pair of ſcales the ſubject matter, divided into three parts; firſt, whether this ancient roll be King Henry the ſecond's; ſecondly, whether King Stephen's; thirdly, whether King Henry the firſt's. This is the effect of the balance: the greater weight of reaſon in the ſcale of the third queſtion; namely, that that roll ſhould be referred to the time of King Henry the firſt; but let the learned determine, whether to the eighteenth year, or to any other of that King's reign. Wherefore I have acted ſo cautiouſly and diffidently throughout my hiſtory of the exchequer, that as often as there was occaſion to quote this ancient roll, I choſe rather to call it the great roll of the fifth year of King Stephen, according to the method I have all along taken, than relying on my own private opinion, to depart from the general rule, and ſet a new name on the roll. And indeed I did it on the moſt mature deliberation; for I do not think it becomes me both to plead a cauſe, and give judgment in it. However, it is with the antiquaries (nor will I oppoſe them) if they ſhould ſee cauſe from what I have ſaid above or from their own better knowledge hereafter, to change the ſtyle in this inſtance, and name that roll from the reign of King Henry the firſt,

Now I am deſirous of finiſhing this diſſertation: in order to return you my ſincereſt thanks, for having condeſcended to approve of my ſtudies. But what do I ſay? they are alſo yours. I am endeavouring to make your lordſhip a party concerned, nor imprudently; for you are extremely fond of the art of hiſtory. You have collected a variety of antiquarian materials for the practice, ornament and illuſtration of it; nor

(*a*) And Queen Maud died at Wincheſter in the month of May, and was buried there. Sax. chron. p. 221. in the year of our Lord 1118.

England ſuffered a great loſs by the Queen's death in thoſe Days, She departed this life at Weſtminſter on the kalends of May, and was decently interred in that monaſtery. Eadm. new hiſt. b. 5. p. 122. lin. 37.

In the year 1118——Maud Queen of England died before the kalends of May at Weſtminſter, and was decently buried in that monaſtery. Hoved. P. 1. p. 474. n. 20, 30.

(*b*) Prynn. of Queen gold in append. p. 5.

is your inſtructive ſtudy confined within the borders of your own country. You are moſt learned in the hiſtory and antiquities of Greece, Italy, and other polite European nations: wherefore I make no ſcruple, aſking firſt your leave, to ſalute you, as an antiquary; that I have all along ſpoke to you as ſuch; for making uſe of words, introduced about the middle period: I have ſometimes laid aſide the Roman purity, and I did it induſtriouſly, as occaſion offered, chooſing rather to ſpeak in a barbarous language, than obſcurely or uncertainly. Indeed that famous man Henry Meibomy thought, that monuments of antiquity ought to be eſteemed by learned men, only for being very ancient, "becauſe of "its antiquity (ſays he) which is eſteemed by all learned men;" *(a)* nor indeed undeſervedly. But I muſt not be ſo daring: for few of our own countrymen are of Meibomy's opinion. But why? Here profit and antiquity are joined together. I am now arguing, that the great roll, is not only ancient, but alſo uſeful, and of conſequence. But be theſe things as they will, moſt noble lord, may the learning of antiquity, hiſtory, and philology, flouriſh under the favour and countenance of the moſt excellent men, and more eſpecially of her Royal Majeſty. May, I ſay, the true, candid, genuine, and ingenious knowledge of antiquity flouriſh, in our fair country. May the Britiſh annals flouriſh, and be taken from authentic records. May they be wrote at leiſure, at a proper time, methodically, impartially, and with perſpicuity; without favouring parties, or conſulting bad authorities, without any mean affectation, unbecoming learned men. Upon the whole; may the inſtruction of every liberal ſcience, which has (they ſay) been withering for a long time, reflouriſh; and all commendable arts proſper, and encreaſe, as long as the globe of the earth exiſts; and may the thrice beſt, and greateſt God, cauſe what I here ſuppliantly wiſh for, to have an happy effect. As to what remains, moſt illuſtrious lord, I muſt have recourſe to your friendſhip. I hope this inquiry of mine, be it as it may, will not be unacceptable to you, if upon no other conſideration, be it upon this, becauſe it comes from one, who is a moſt humble admirer, and ſincere obſerver of your virtues.

Dated at London, in the month of May, of the year of our Lord Jeſus Chriſt 1708.

(*a*) Meib. Notes on the Sax. chron. p. 134. n. 10.

THE

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MVSEVM BRITANNICVM

F I N I S.

ERRATA.

Page 2, line 31, for *diſpatch*, read *diſcharge*; p. 19, note (*c*) f. *in general* r. *mankind in general*; p. 21, b. l. 1, f. *but*, r. *only*; p. 26, b. l. 14, f. *were*, r. *were not*; ib. l. 15, f. *are*, r. *were*; p. 24, b. l. 27, f. *bearing*, r. *having*; p. 34, l. 23, f. *are not to pay*, r. *cannot pay*; p. 34, b. l. 20, f. *paid*, r. *not paid*; ib. l. 21. f. *taken away*, r. *offered*; ib. l. 25, f. *charges*, r. *wardſhips*; p. 38, b. l. 17, after *remarkable*, add *for it*; ib. l. 18, after *and*, add *though he*; p. 41, l. 2, after *ſending*, add *it*; ib. l. 4, f. *paid*, r. *ſaid*; p. 43, l. 27, f. *by* r. *to*; p. 53, b. l. 34, f. *has offered*, r. *is left*.